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NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
& ARBITRATION BOARD, Tuesday, 5:30 p.m.

January 3, 1989

State Building, 350 McAllister St. #1158

AGENDA

DOCUMENTS DEPT.

JAN 3 1989

SAN FRANCISCO
PUBLIC LIBRARY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals
 - A. 25 Capra Way #104 J001-56A (cont. from 12/20)
 - B. 333 Webster St. #6 J001-59A
 - C. 1720 Golden Gate Ave. #33 J001-60A
- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions
- IX. Old Business
 - Proposed Rules and Regulations changes
- X. New Business
- XI. Calendar Items
- XII. Adjournment



SF
RS2
2 1/3/89

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, January 3,
1989 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

DOCUMENTS DEPT.

I. Call to Order

JAN 11 1989

Acting Chair Marshall called the meeting to order at 5:40 p.m.
SAN FRANCISCO PUBLIC LIBRARY

II. Roll Call

Commissioners Present: Hammill, How, Lipski, Marshall,
Soulis
Commissioners not Present: Villa
Staff Present: Hernandez, Wolf

Commissioner Astle appeared on the record at 5:55 p.m., Commissioners
McGoldrick and Stephenson at 6:20 p.m., and Commissioner Carrico at
7:19 p.m. Commissioner Soulis went off the record at 8:46 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of December 20, 1988, with the
following correction: "VI. Director's Report: B. The
Deputy City Attorney...has been assigned out of the
Land Use division...."

To revise the Minutes of December 13, 1988, as
follows: "III. Executive Session: ...pursuant to
Government Code Section 54956.9(b)(1).

IV. Consideration of Appeals

A. 25 Capra Way #104 J001-56A (contd. from 12/20/88)

The landlord appeals a 5% (\$24.36) monthly rent reduction granted to
correspond with the conversion of the building's central steam heating
system to individual unit gas heaters paid for by the tenant. The
landlord disputes any significant increase in the tenant's gas bills
not already offset by the landlord's monthly credit to the tenant of
\$15.76.

MSC: To uphold the hearing officer and deny the appeal.
(Hammill/Lipski: 5-0)

B. 333 Webster Street #6 J001-59A

In the original decision on this case, the tenant was granted a rent
reduction of \$50.00 per month due to the removal of a balcony from his
unit. The landlord appealed on the grounds that she was out of the
country and had failed to receive notice of the hearing. The appeal
was accepted and the case was remanded for a new hearing with the same
hearing officer. On remand the decision was essentially the same. The

landlord again appealed, alleging that the Bureau of Building Inspection forced the removal for termite and dryrot reasons.

MSC: To uphold the hearing officer and deny the appeal.
(Hammill/Astle: 3-2; Commissioners How and Soulis
dissenting)

C. 1720 Golden Gate Ave. #33 J001-60A

The landlord appealed the hearing officer's decision granting a rent reduction for the twenty-two days that the tenant was without a refrigerator. The landlord maintains on appeal that repairs were effectuated in a timely manner, and that a substitute appliance was available for the tenant's use, if he could arrange transportation.

MSC: To uphold the hearing officer and deny the appeal.
(Marshall/Hammill: 5-0)

V. Communications

The Commissioners received the November 1988 Rent Board Stastics.

VI. Remarks from the Public

The former owner of 333 Webster Street addressed the Board.

VII. New Business

It was the consensus of the Commissioners to hold Board elections on January 17, 1989.

VIII. Old Business

The Commissioners discussed possible Rules and Regulations changes from 6:10 p.m. to approximately 9:45 p.m.

IX. Calendar Items

January 10, 1989

5:30- EXECUTIVE SESSION: Landau v. S.F.R.R.S.A.B. S.F. Superior Court
No. 897-517 (1290 Jackson Street)
5 appeal considerations (including consolidated appeals)
1 Eviction Reconsideration and Staff Report
Old Business: Proposed Rules & Regulations Changes

January 17, 1988

8 appeal considerations
New Business: Board Elections
Old Business: Proposed Rules & Regulations Changes

X. Adjournment

Vice President Astle adjourned the meeting at 9:50 p.m.



NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, 5:30 p.m. January 10, 1989

State Building, 350 McAllister St. #1158

AGENDA

DOCUMENTS DEPT.
JAN 11 1989
SAN FRANCISCO
PUBLIC LIBRARY

- I. Call to Order
- II. Roll Call
- III. EXECUTIVE SESSION: [Govt. Code Section 54956.9(a)]
Landau v. S.F. Rent Board (Superior Ct. No. 897 517)
- IV. Approval of the Minutes
- V. Consideration of Appeals
 - A. 1369 Hyde Street #67 J001-62A
1369 Hyde (39 units) J001-62R through J002-01R
 - B. 762 Pine Street J001-66A & J001-59R
 - C. 1175 York St. J001-63A
 - D. 2949 Pacific J001-64A
 - E. 871- 14th Street J001-65A
- VI. Communications
- VII. Director's Report
- VIII. Remarks from the Public
- IX. Consideration of Allegations of Wrongful Evictions
 - A. Reconsideration Request & Report from Staff
2090 Grove St. #2 J001-61A & J001-41E
- X. Old Business:
Prospective Rules & Regulations Changes
- XI. New Business
- XII. Calendar Items
- XIII. Adjournment

1584A



SF
R52
#2
1-10-89

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, January 10, 1988 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

DOCUMENTS DEPT

I. Call to Order

JAN 17 1989

Vice-President Astle called the meeting to order at 5:36 p.m.

II. Roll Call

Commissioners Present: Astle; Hammill; Lipski; Marshall; McGoldrick; Villa; Stephenson.
Commissioners not Present: Soulis.
Staff Present: Hernandez; Wicks.

Commissioner How appeared on the record at 5:36 p.m. Commissioner Carrico appeared on the record at 5:38 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of January 3, 1988, as corrected.
(Marshall/Hammill: 4-0)

IV. Executive Session

The Board went into Executive Session at 5:39 p.m. pursuant to Government Code Section 54956.9(a) to discuss Landau v. S.F. Rent Board (Superior Court No. 897 517). Deputy City Attorney Richard Judd discussed the matter with the Commissioners. After approving the following motion, the Board came back on the record at 5:53 p.m.:

MSC: To reconsider its decision concerning 1290 Jackson Street (Case No. I002-79C and Appeal Nos. I002-32R through I002-36R) and remand the case to a hearing officer for a hearing on February 1, 1989 at 9:30 a.m., and to request that the parties submit evidence on hardship and fair return to the hearing officer for final determination by the Commissioners.
(Marshall/McGoldrick: 5-0)

V. Consideration of Appeals

A. 1369 Hyde St. J001-62R through J002-01R
1369 Hyde St. #67 J001-62A

Thirty-nine tenants appealed concerning their units, and the landlord appealed for one unit. The hearing officer certified capital improvements, with one disallowance; approved operating and maintenance cost increases; and denied the decreased services and failure to repair claims for forty-five of the forty-six petitioning tenants.

On appeal the landlord challenged the decreased service allowance, stating that the tenant refused access for repairs. The appealing tenants objected that exaggerated results were produced by the time periods used in the landlord's operating and maintenance petition, that the laundry room improvements should not be certified, and that decreased service petitions were improperly denied.

- MSC: To excuse Commissioner Stephenson from this consideration. (Astle/Marshall: 5-0)
- MSC: To remand the landlord's appeal to the same hearing officer only on the issue of whether or not the tenant refused the landlord access to make repairs. (How/Carrico: 5-0)
- MSC: To accept the tenants' appeals at the Board level on the issues of laundry room capital improvements, as well as operating and maintenance costs in regard to the time periods used, management issues, and roof use. (Marshall/McGoldrick: 4-1; Carrico dissenting)

B. 762 Pine St.

J001-59R & J001-66A

Both landlord and tenant appealed the hearing officer's decision allowing certain capital improvement increases and disallowing others involved in a renovation project. The elderly tenant appealed on the basis of hardship, since the monthly capital improvement increase of \$605 was in addition to her base rent of \$435.00, and an accumulated increase of \$4,800 was also being imposed. The landlords appeal disallowance of certain items for certification, believing the hearing officer omitted or miscalculated various costs, and stressing the economic hardship to the landlords if the tenant prevails.

- MSC: To accept the tenant's hardship appeal at the Board level. To accept the landlords' appeal at the Board level on the issue of incorrect capital improvements passthrough. The Board will also correct calculation errors in the decision. (How/Marshall: 5-0)

C. 1175 York St.

J001-63A

The tenant received a rent reduction for decreased services for loss of exterior stairs, the only form of entry and exit to her second-story unit. The owner had replaced the stairs with a ladder which the tenant and her two children had to use for approximately three weeks. The hearing officer additionally declared null and void various rent increases above the allowable amounts, while explaining increase amounts the landlord could "bank." On appeal the landlord protested the voiding of increases since he had no notice this issue was before the Board and was not prepared to challenge the tenant's evidence, some of which he believed was incorrect.

1585A

MSC: To remand the case to the same hearing officer to allow both sides an opportunity to present evidence on the issue of improper rent increases. (How/McGoldrick: 5-0)

D. 2949 & 2949-B Pacific Ave. J001-64A

The landlord petitioned for certification of capital improvements made to the subject three-unit building. The tenants argued that the majority of the work did not need to be done and resulted from the reconfiguration of the upper unit into a two-story penthouse. The landlord withdrew several claimed expenses, and the hearing officer disallowed several others while certifying the balance of the petitioned-for items. On appeal the landlord protested rejection of his claim for siding and rear windows, arguing that this work was necessitated by deterioration of the existing structure. In rebuttal the tenants maintained that this work was necessary only because of the work on the new unit.

MSC: To uphold the hearing officer and deny the appeal. (McGoldrick/Marshall: 5-0)

E. 871- 14th Street J001-65A

The tenants provided documentation of several years of requests for repairs in the subject house. In June 1988 the Bureau of Building Inspection cited the landlord for various code violations, for which the hearing officer granted rent reductions based on decreased services. He also voided various improper past rent increases, with allowable banking explained. On appeal the landlord protested that she had not been able to attend the hearing because she moved and did not get notice, despite evidence of proper service. The landlord further argued that the Rent Board had no jurisdiction over this matter since the rental agreement was entered into before March 1984.

MSC: To uphold the hearing officer and deny the appeal. (McGoldrick/Marshall: 4-1; Carrico dissenting)

VII. Communications

The Commissioners reviewed the following communications:

- A. A letter from the tenants' association for 903 Pine Street;
- B. The appeal decision for 550 Moraga St., which was approved;
- C. The December 1988 Rent Board statistics;
- D. A declaration from the landlord at 871-14th Street;
- E. The landlord's rebuttal statement for 1369 Hyde Street.

VIII. Director's Report

Executive Director Ricardo Hernandez discussed the process of preparing the proposed Rules & Regulations for public distribution and public hearing.

IX. Consideration of Allegations of Wrongful Evictions

Reconsideration Request & Report from Staff:

2090 Grove St. #2

J001-61A & J001-41E

The tenant took up occupancy in 1983, residing with an original tenant who had begun her tenancy in 1976. It was the master tenant's practice to rent the extra bedroom. There was no rental agreement, and both the landlord and various managers were aware of and approved this practice; they were further aware of the subject tenant's occupancy. Three years after the subject tenant moved in, he asked the owner to put his name on the rental agreement. The owner refused, stating that he was not considered a co-tenant. It was alleged at hearing that the master tenant had informed the subtenant that he had no rights beyond her tenancy and must vacate if she moved. The tenant married and resided in the unit with his wife and, later, their child. When the master tenant died and unsuccessful attempts were made to reach a negotiated rent increase, the landlord gave the tenants a termination notice for unapproved subtenancy.

EVALUATION: The subject tenants are approved tenants who retain the right to occupy the unit at their current rent and who are entitled to the protections of the Ordinance.

RECOMMENDATION: (1) To deny the Reconsideration Request; and (2) to write the landlord, expressing the Board's view that these tenants are protected by the Ordinance and have the right to remain in the unit at the [full] rental amount and any allowable increases.

MSC: To deny the Reconsideration Request and write a cautionary letter to the landlord, expressing the Board's view of this matter. (Astle/Marshall: 3-2; Carrico and How dissenting)

X. Old Business

The Board discussed possible Rules and Regulations changes from approximately 7:16 p.m. to 9:55 p.m. The following motions were passed:

MSC: To approve for public consideration the draft changes for Rules and Regulations as follows:

Sections 2.10, 2.11, 11.15, 11.17, 11.25, 12.19, 1.15(e), 12.14, 10.10(a), (b), (c), (d), and 10.11(a), (b), and (c). Civil Code Section 1941.1 will be copied for public distribution in conjunction with proposed Rule 10.10(a)(2). (Marshall/Astle: 5-0)

Sections 7.10(b)(4), 7.17(a)(1) through (5), and 6.11(a). (Astle/How: 5-0)

Sections 6.14(a), (b), (c), (d), and (e). (Astle/Marshall: 5-0)

Section 6.10(a). (Astle/Marshall: 5-0)

Sections 6.10(a), (b), (c), (d), (e).
(Astle/Marshall: 5-0)

Sections 7.12(d), 7.14, and 7.15(b), (c).
(Marshall/McGoldrick: 4-1; Carrico dissenting)

XI. Calendar Items

January 17, 1989

8 appeal considerations

New Business: Board Elections

Public Hearing Format for Proposed Rules &
Regulations Changes

January 24, 1989

5 appeal considerations

2 eviction reconsiderations & staff summaries

January 31, 1989

PUBLIC HEARING: Proposed Rules & Regulations Changes

XII. Adjournment

President Carrico adjourned the meeting at 10:05 p.m.



NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, 5:30 p.m.
January 17, 1989

State Building, 350 McAllister St. #1158

AGENDA

DOCUMENTS DEPT.

JAN 17 1989

SAN FRANCISCO
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- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals*
 - A. 1048 Guerrero St. J001-55A
 - B. 486 Funston Ave. #202 J002-02R
 - C. 3862- 22nd St. J001-68A
 - D. 230 Castro St. #6 J002-03R
 - E. 220 Peabody St. J001-69A
 - F. 520 Natoma St. J001-71A
 - G. 565 Jones St. J001-61R
- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions
- IX. Old Business
- X. New Business
 - A. Board Elections
 - B. Public Hearing Format for Proposed Rules Changes
- XII. Calendar Items
- XIII. Adjournment

* The appeal was withdrawn for 12 Woodland Ave. #3, J001-70A



SF
R52
#2 1/17/89

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, January 17, 1989 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

JAN 20 1989

I. Call to Order

President Carrico called the meeting to order at 5:38 p.m.

II. Roll Call

Commissioners Present: Astle; Carrico; Hammill; Lipski; Soulis; Stephenson; Villa.
Commissioners not Present: Marshall; and McGoldrick.
Staff Present: Hernandez; O'Hearn,

Commissioner How appeared on the record at 5:40 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of January 10, 1989 as written.
(Astle/Stephenson: 5-0)

IV. Consideration of Appeals

A. 1048 Guerrero St. J001-55A

At the meeting the Commissioners received a letter from the landlord's attorney, who previously received a postponement of this matter, with a transcript of the hearing before the hearing officer.

MSC: To continue consideration of this appeal until the next Board meeting. (Stephenson/Hammill: 5-0)

B. 486 Funston Ave. #202 J002-02R

The tenant appeals the denial of her petition claiming a recent rent increase is unlawful because it was not specifically authorized by the owner. The hearing officer determined that the banked and annual increases were properly imposed. The tenant objects to the claimed representation by the attorney on behalf of the "landlord." She also believes that the owner is possibly being defrauded by the attorney and the "manager."

MSC: To deny the appeal. (How/Stephenson: 5-0)

C. 3862 - 22nd St. J001-68A

The hearing officer found that the owner failed to prove occupancy at this two-unit building anytime prior to September 1988. As a result,

the proposed rent increase effective November 1, 1988 from \$377.00 to \$700.00 per month is null and void. On appeal the landlord states that he moved to the building on May 27, 1988 (5 months prior to the proposed increase), but was house sitting at another address from August 1st to December 12th.

MSC: To deny the appeal. (Stephenson/Astle: 5-0)

D. 230 Castro St. #6 J002-03R

The tenants appeal the hearing officer's decision granting an operating and maintenance increase of 7% for three of the six units at the building. They claim that the hearing officer improperly included various financing costs in the operating expenses.

MSC: To deny the appeal. (Astle/How: 5-0)

E. 220 Peabody St. #A J001-69A

The landlord appeals the third decision placing this four-unit building under the jurisdiction of the Rent Board. The landlord again states that he has resided at the building for a year thereby exempting the property. The landlord also argues that the Board does not have the authority to determine exemptions.

MSC: To deny the appeal. (Stephenson/How: 5-0)

F. 520 Natoma St. J001-71A

The hearing officer granted capital improvement increases, but denied an additional increase for operating expenses because the landlord failed to adequately document those expenses over a consistent 24-month period. On appeal the landlord states that the expenses claimed, while not paid within the appropriate period, covered that period. He makes other objections concerning the disallowance of certain expenses.

MSW: To deny the appeal. (Astle/Stephenson)

MSC: To remand the case to the same hearing officer for consideration of the issues raised on appeal.
(Astle/Stephenson: 5-0)

G. 565 Jones St. J001-61R

The hearing officer dismissed the tenant's petition based on her failure to appear at the hearing. The tenant believes that she did not receive the notice because the landlord withheld it.

MSC: To accept the appeal and remand the case to the hearing officer. (Hammill/Astle: 5-0)

V. Communications

Other than the document concerning the 1048 Guerrero St. appeal above, 1595A

the Commissioners reviewed the following communications:

- A. The Board decisions for 865 Capp St. and 25 Edward St., which were approved;
- C. Two 1985 memos distributed by Commissioner Marshall concerning fair return from the City Attorney and net operating income standard from a consultant to the Berkeley Rent Board;
- D. Rules and Regulations comments and authorities distributed by Commissioner Hammill concerning the term "principal place of residence;" and
- E. Draft language for proposed changes to the Rules and Regulations, which was corrected.

VI. Director's Report

The Executive Director stated that the Notice of Public Hearing was sent to 500 individuals or organizations.

He will prepare the agency's budget for Board review in February.

VII. Remarks from the Public

A. Charles LaKamp spoke on behalf of a group of apartment owners. He commented on the Board's process regarding proposed rule changes and read a letter criticizing Commissioners Astle and Marshall which he will send to the Mayor.

B. Alfred Goodwin also criticized Commissioner Astle.

C. The tenant of 486 Funston Ave. #202, above, commented on the Board's denial of her appeal.

VIII. New Business

A. Board Elections

There being insufficient votes with the absence of two regular Board members, the Board continued this matter to the beginning of the next Board meeting.

B. Public Hearing format

Following some discussion, the Board agreed to conduct the public hearing on January 31st in order of sections/topic and limit public comment to 3 minutes per individual for each topic. The Board also agreed to end the hearing by 10:00 p.m.

IX. Old Business

Commissioner Astle spoke with the City Attorney who indicated that Deputy City Attorney Kathryn Pennypacker will be re-assigned to the Rent Board.

X. Calendar Items

January 24, 1989

New Business (cont.): Board Elections

8 appeal considerations (including 1 cont. from 1/17)

2 eviction reconsiderations & staff summaries

January 31, 1989

PUBLIC HEARING: Proposed Rules & Regulations Changes

February 7, 1989

8 appeal considerations

2 appeal hearings: (both accepted 1/10)

762 Pine St., J001-59R & J001-66A

1369 Hyde St., J001-62R through J002-01R

XI. Adjournment

President Carrico adjourned the meeting at 6:55 p.m.



NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, 5:30 p.m.

January 24, 1989

State Building, 350 McAllister St. #1158

AGENDA

I. Call to Order

II. Roll Call

III. New Business

Board Elections (cont. from 1/17/89)

IV. Approval of the Minutes

V. Consideration of Appeals

- | | | |
|----|-------------------------------------|-------------------------------|
| A. | 1048 Guerrero St. | J001-55A (cont. from 1/17/89) |
| B. | 731 Florida St. #203 | J001-69A & J001-73A |
| C. | 903 Pine St. | J002-04R through J002-17R |
| | units 28, 47, 15, 5, 23/24, 18, 40, | 11, 17, 6, 46, 27, 38 & 28 |
| D. | 543 Buena Vista West #1 | J001-75A |
| E. | 250 Point Lobos #501 | J002-19R |
| F. | 169 - 12th Ave. | J002-18R |
| G. | 266 Missouri St. | J001-76A |
| H. | 532 Cole St. | J001-74A |

VI. Communications

VII. Director's Report

VIII. Remarks from the Public

IX. Consideration of Allegations of Wrongful Evictions

Request for Reconsiderations

- | | | |
|----|-----------------|----------|
| A. | 162 Duncan St. | J001-72A |
| B. | 2898 - 22nd St. | J001-77A |

X. Old Business

XI. Calendar Items

XII. Adjournment

DOCUMENTS DEPT.

JAN 20 1989

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, January 25,
1989 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

DOCUMENTS DEPT.

President Carrico called the meeting to order at 5:34 p.m. JAN 30 1989

II. Roll Call

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Commissioners Present: Astle; Carrico; Hammill; How;
Lipski; Marshall; Stephenson;
Villa.

Commissioners not Present: Soulis.

Staff Present: Hernandez; Wolf.

Commissioner McGoldrick appeared on the record at 5:36 p.m.
Commissioner How went off the record at 5:37 p.m.; and Commissioners
Hammill and Stephenson left at 6:10 p.m.

III. Board Elections

MSC: To nominate Commissioner Astle for Board President.
(Marshall/Carrico)

MSC: To nominate Commissioner How for Vice-President.
(Astle/Marshall)

Commissioner Astle was elected Board President and Commissioner How was
elected Vice-President by acclamation. Congratulations to the Board's
new officers.

IV. Approval of the Minutes

MSC: To approve the Minutes of January 17, 1989 as written.
(Astle/Marshall: 5-0)

V. Consideration of Appeals

A. 1048 Guerrero St. J001-55A (cont. from 1/17/89)

The landlord appeals the hearing officer's decision finding that the
landlord had not met the requisite burden of proof to establish
owner-occupancy. The landlord's evidence consisted mostly of
affidavits sworn under penalty of perjury from individuals attesting
that they had visited the landlord at the subject unit. The tenant's
evidence showed that the landlord's addresses listed in the phone book,
on the grant deed for the property and with the Registrar of Voters are

all different, and tenants in the building maintain that they see the landlord on the premises infrequently.

MSC: To accept the appeal and schedule a hearing before the Commissioners. (Villa/Carrico: 5-0)

B. 731 Florida St. #203 J001-69T and J001-73A

The current and prior owner of the subject property appeal the hearing officer's decision refunding the tenant \$16,827.32 in past rent overcharges. The landlord's contentions are that the building is exempt from Rent Ordinance jurisdiction because: it is improved warehouse space for which a Certificate of Occupancy was not issued until February 1986; the owner had no knowledge of residential use of the unit prior to the effective date of the Ordinance; and the tenant does not reside on the premises but uses the property for commercial purposes.

MSC: To deny the appeals. (Marshall/McGoldrick: 2-3; Astle, Carrico, Villa dissenting)

MSC: To affirm that this unit is live-work space covered by the Ordinance and deny the appeals in all respects except the amount of the overcharges, which issue shall be the subject of a hearing before the Commissioners. (Astle/Villa: 5-0)

C. 903 Pine Street units #28, 47, 15, 5, 23/24, 18, 40, 11, 17
6, 46, 27, 38 and 28
J002-04R through J002-17R

Fourteen tenants appeal the hearing officer's decision certifying capital improvement increases for four buildings on three lots. The tenants claim that the hearing officer abused his discretion in many respects, including: bias exhibited in favor of the landlord; negligence in protecting tenants from "excessive rent increases"; failure to dismiss the petition as having been improperly filed; and failure to comply with the requirement that the hearing on the petition be held within 45 days of filing.

MSC: To deny the appeal. (Astle/McGoldrick: 5-0)

D. 543 Buena Vista West #1 J001-75A

The tenant was granted a \$50.00 monthly rent reduction due to the loss of use of a parking space. The landlord had informed him that his car was leaking oil and that his parking privilege would be revoked if the oil leak was not stopped in 10 days. On appeal, the landlord asserts that he did not reduce services, as the tenant chose to cease using the space instead of repairing his car. The tenant responds that the oil leak did not constitute a nuisance, as it was so small that his mechanic couldn't locate it.

MSC: To deny the appeal. (Astle/Villa: 5-0)

E. 250 Point Lobos #501 J002-19R

The tenant's petition regarding an alleged illegal rent increase was denied, as the hearing officer found that the tenant is no longer a residential tenant, but uses the unit for commercial purposes only. The tenant is married and has a baby; she and her husband own a house in Berkeley. The tenant claimed rent for the subject unit as a business expense on her 1987 taxes. On appeal, the tenant maintains that the Berkeley house is not suitable for she and her child, as there is no heat; that she has always used the subject unit for commercial as well as residential purposes; and that it continues to be her principal place of residence.

MSC: To deny the appeal. (Astle/Villa: 5-0)

F. 169 12th Avenue J002-18R

The tenant failed to appear at a properly noticed hearing and his petition was, therefore, dismissed. The tenant admits on appeal that he neglected to calendar the hearing and apologizes for the inconvenience.

MSC: To deny the appeal without prejudice to re-filing.
(Astle/Marshall: 5-0)

G. 266 Missouri Street J001-76A

The tenant was granted a 15% monthly rent reduction due to lack of a shower/tub for a period of almost one year. On appeal, the landlord alleges that the amount of the rent reduction was excessive; that the tenant refused to provide access to the unit; and that the problems were mostly cosmetic, and not functional.

MSC: To deny the appeal. (Marshall/McGoldrick: 5-0)

H. 532 Cole Street J001-74A

As a result of a fire, the unit occupied by the tenants suffered extensive damage. They were granted a 50% rent reduction for the time period that one tenant's room remains uninhabitable and the hearing officer recommended that an attempted wrongful eviction by the landlord be monitored by staff. On appeal, the landlord alleges that the hearing officer is racist and biased against him and that the facts, as stated in the decision, are incorrect.

MSC: To deny the appeal. (Astle/Marshall: 5-0)

VI. Communications

The Board received the following communications:

- A. A supplementary response to the tenant's appeal regarding the case at 250 Point Lobos #501 (J002-19R).
- B. A Memorandum from the City Attorney regarding the Brown Act.

VII. Director's Report

Executive Director Hernandez reviewed this year's budget cycle. The Board discussed priorities for increased funding: the consensus was in the areas of outreach and evictions. At the February 7th Board meeting, Mr. Hernandez will report on projected costs for increased outreach and Eviction Unit Supervisor Alicia Wicks will discuss the Eviction Unit's needs with the Board.

VIII. Consideration of Allegations of Wrongful Evictions

Reconsideration Requests and Reports from Staff

- A. 162 Duncan Street J001-72A

The landlord attempted to evict the tenant, asserting that the building was exempt due to owner-occupancy. However at the time notice was served, the landlord held only a 25% interest in the property. The night before the hearing, the landlord's estranged wife quitclaimed him an additional 25% interest. The hearing officer found that the building was not exempt at the time notice was given, and therefore the eviction attempt was wrongful. Additionally, there are indications that the landlord may wish to move into the tenant's unit, renovate, and sell the building. The hearing officer warned the landlord about potential problems should he pursue this course of action.

In the reconsideration request, the landlord's attorney accuses the hearing officer of bias, confusion regarding real property and partnership law, and making determinations regarding issues not before her.

RECOMMENDATION: (1) To deny the reconsideration request since there is nothing to show that the hearing officer erred, either procedurally or in legal analysis; (2) to write the landlord expressing the Board's belief that the hearing officer's determination and analysis are correct; and (3) To monitor the case.

MSC: To deny the request for reconsideration.
(Astle/McGoldrick: 5-0)

MSC: To accept staff's recommendations. (Astle/McGoldrick:
5-0)

B. 2898 22nd Street

J001-77A

The landlord is attempting to evict the tenant in this case as an unapproved subtenant. The tenant's mother lived in the unit for over 20 years, until her death in 1988. The tenant moved into the unit in 1979. Two previous owners knew of the tenant's presence in the unit. Upon the mother's death, the current owner served the tenant with notice to vacate and had utility service to the unit terminated.

RECOMMENDATION: (1) To deny the reconsideration request; and (2) take no further action beyond informing the landlord that he should familiarize himself with the provisions of the Ordinance and refrain from taking actions such as termination of utilities with tenants still in place, regardless of a dispute over the tenancy.

MSC: To deny the request for reconsideration.
(Astle/Marshall: 5-0)

MSC: To accept staff's recommendations. (Astle/Marshall: 5-0)

IX. Old Business

The Board discussed the format for the Public Hearing on proposed Rules changes on January 31st. It was decided that, rather than having to sign up to address a specific topic, the public will be able to speak on whatever they wish for 3-5 minutes, depending on the attendance. Changes were made to proposed option 2 of Section 7.14 and a corrected page 14 will be distributed next week.

X. Calendar Items

January 31, 1989

Public Hearing: Proposed Rules and Regulations Changes

February 7, 1989

2 appeal hearings: (both accepted January 10)

762 Pine Street J001-59R and J001-66A

1369 Hyde Street J001-62R through J002-01R

Old Business: Budget priorities
Brown Act

February 14, 1989

3 appeal considerations

2 appeal hearings: (both accepted 1/24/89)

1048 Guerrero J001-55A

731 Florida #203 J001-69A and J001-73A

XI. Adjournment

President Carrico adjourned the meeting at 7:40 p.m.
1599A



NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, 5:30 p.m.

January 31, 1989

State Building, 350 McAllister St. #1158

AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Communications
- V. Director's Report
- VI. Remarks from the Public
- VII. Old Business
- VIII. New Business
- IX. Public Hearing
- 6:00 Proposed Amendments to Rules and Regulations
- X. Calendar Items
- XI. Adjournment

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1/31/89

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, January 31, 1989 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

President Carrico called the meeting to order at 6:05 p.m.

II. Roll Call

Commissioners Present: Astle; Carrico; Hammill; How;
DOCUMENTS DEPT. Lipski; Marshall; McGoldrick;
Soulis; Stephenson; Villa

FEB 7 1989

Staff Present: Hernandez; Wolf

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III. Approval of the Minutes

MSC: To approve the Minutes of January 25⁴, 1989 as written.
(Astle/McGoldrick: 5-0)

IV. Public Hearing

The Public Hearing regarding proposed changes to the Rules and Regulations commenced at 6:10 p.m. and ended at 11:00 p.m. 106 individual landlords and tenants, and representatives of organizations, signed up to speak. 56 members of the public actually testified before the Commissioners. Subject areas included: Board Organization and Procedures; Operating and Maintenance Expenses; Capital Improvement Certification; Tenant Petitions for Decreased Housing Services and Failures to Repair and Maintain; Substantial Rehabilitation; and "Other Displacements", specifically due to fire.

A good deal of the testimony focused on proposed language limiting the amount of capital improvement pass-throughs by: extending the amortization periods; setting a yearly "cap" of a dollar amount or percentage of base rent, with allowable banking of the remainder; and/or disallowance of imputed interest. Tenants spoke to the need to reduce the amounts of rent increases and resulting fears of displacement; and the "grey area" between work necessary for reasons of health or safety and "luxury" items. Landlords addressed the necessity of maintaining an economic motivation to perform the work.

The record was left open for two weeks for written comments.

IV. Calendar Items

February 7, 1989

2 appeal hearings: (both accepted January 10, 1989)
762 Pine Street J001-59R and J001-66A
1369 Hyde Street J001-62R through J002-01R

Old Business: Budget Priorities
Brown Act

February 14, 1989

4 appeal considerations
2 appeal hearings: (both accepted January 24, 1989)
1048 Guerrero J001-55A
731 Florida #203 J001-69A and J001-73A

VI. Adjournment

President Carrico adjourned the meeting at 11:00 p.m.



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2/7/89

NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
& ARBITRATION BOARD, Tuesday, 5:30 p.m.
FEBRUARY 7, 1989

State Building, 350 McAllister St. #1158

AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals

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- | | | |
|----|----------------------------|----------|
| A. | 3484 18th St. #3, 4, 5 & 6 | J001-79A |
| B. | 737 Greenwich St. | J001-78A |
| C. | 1831 Hyde St. | J001-80A |
| D. | 508 Scott #7 | J001-81A |
| E. | 540 Capp St. #213 | J001-82A |
| F. | 370 32nd Ave. #34 | J001-83A |
| G. | 679 Clementina St. | J002-20R |
| H. | 587 Haight St. | J001-84A |

- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions
- IX. Old Business

- A. Budget Priorities
- B. Brown Act

- X. New Business

- XI. Appeal Hearings

- | | | | |
|------|----|---------------|---|
| 6:00 | A. | 762 Pine St. | J001-59R & J001-66A
(accepted 1/10/89) |
| 6:30 | B. | 1369 Hyde St. | J001-62R through J002-01R
(accepted 1/10/89) |

- XII. Calendar Items

- XIII. Adjournment

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, February 7,
1989 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

The meeting was called to order at 5:36 p.m. by President Astle.

II. Roll Call

Commissioners Present: Astle; Carrico; Hammill; Lipski;
Marshall; Soulis; Stephenson;
Villa.
Commissioners not Present: How.
Staff Present: Hernandez; Wicks.

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Commissioner McGoldrick appeared on the record at 5:37 p.m.
Commissioner Soulis went off the record at 8:43 p.m.

FEB 14 1989

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III. Approval of the Minutes

MSC: To approve the Minutes of January 31, 1988, as written.
(Carrico/Hammill: 5-0)

IV. Consideration of Appeals

A. 3484 - 18th St. J001-79A
units 3, 4, 5, 6

The landlord appealed the hearing officer's disallowance of certain capital improvement passthroughs, mainly for bathroom and kitchen renovation. The tenants objected to the work under Rule 7.15(b), and the landlord did not show the work was necessary for reasons of health, safety, or excessive maintenance. On appeal the landlord noted that even though fully informed of the proposed improvements before commencement of construction, the tenants had not protested the work until the hearing. He further indicated that the work was necessary for health and safety reasons.

MSC: To deny the appeal and uphold the hearing officer.
(Marshall/McGoldrick: 3-2; Carrico and Villa
dissenting)

B. 737 Greenwich St. J001-78A

The landlords appealed the hearing officer's ruling allowing a decreased services rent reduction for lack of stairs to a second floor apartment; the tenants only entrance and exit was via two loose planks over a 12-foot drop. The landlords protested that the tenants' rent was initially set below market value to compensate for the stairs, and that the tenants have vacated.

MSC: To uphold the hearing officer and deny the appeal.
(McGoldrick/Marshall: 5-0)

C. 1831 & 1833 Hyde St. J001-80A

The landlord appealed the hearing officer's determination that failure to replace rear stairs, remove hazardous work debris, and restore a backyard garden area constituted decreased services. On appeal the landlord stated that the stairs were being replaced only for the benefit of the tenants, and that any delays resulted from an attempt to change the design in accordance with the tenants' wishes.

MSC: To deny the appeal and uphold the hearing officer.
(McGoldrick: Marshall: 5-0)

D. 508 Scott St. #7 J001-81A

The landlord appealed the hearing officer's ruling that a building operated by an acupuncture college did not meet the requirements for dormitory status and was, therefore, subject to the jurisdiction of the Ordinance. (The finding of jurisdiction was previously affirmed by the Board on appeal concerning another tenant in this building.) Accordingly, decreased service rebates were ordered for lack of heat, pest infestation, and excessive rent increases. The landlord argued that the building was operated as student housing; and even though the tenant was studying at another institution, she was a student for purposes of dormitory exemption from the Ordinance.

MSC: To uphold the hearing officer and deny the appeal.
(Marshall/McGoldrick: 5-0)

D. 540 Capp Street #213 J001-82A

The hearing officer granted decrease in service reductions for some petitioned-for, uncorrected conditions existing at the inception of the tenancy, which the tenant was assured would be timely repaired. On appeal the landlord maintained there was no decrease since the conditions were present when the tenancy commenced, and that the hearing officer failed to take into consideration the tenant's failure to pay rent for November 1988. In rebuttal the tenant provided a copy of a money order for November rent.

MSC: To remand the case to another hearing officer to consider the 2% allowance for interior doorbell defects and to determine whether November 1988 rent was paid.
(Carrico/Villa: 5-0)

F. 370 - 32nd Ave. #34 J001-83A

Past improper rent increases were declared null and void, and any future rent increases were denied by the hearing officer until the landlord repaired a noisy outside fan which the tenant testified prevented him from sleeping soundly. On appeal the landlord asked that only the amounts above the allowable rents--not the entire
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increases--be refunded. He further indicated that repair efforts had been made on the fans and that the Board should establish criteria for an independent verification of whether the fan actually presents a problem.

MSF: To deny the appeal and uphold the hearing officer.
(McGoldrick/ Marshall: 2-3; Astle, Carrico, and Villa dissenting)

MSC: To remand the case to another hearing officer on the fan repair issue. (Astle/McGoldrick: 4-1; Carrico dissenting)

G. 679 Clementina St. J002-20R

The tenant appealed a decision on remand, concerning the setting of a base rent amount for his unit, following his resignation as master lessor and handyman for a three-unit building in which he had resided. The appellant had originally been granted the right to rent and fully supervise the property for a number of years, paying the owner a flat-fee for the building. At the first hearing, the hearing officer approved the rental amount the owner asked for the master lessor' unit, following the latter's relinquishment of management and control of the building. On remand the Board instructed the hearing officer to determine who had the burden of proof and to accept new evidence on the issue of proper base rent. On remand the hearing officer indicated that the appellant could not establish a base rent value and that, accordingly, the \$700 originally agreed to by him and the owner was approved.

MSC: To accept the appeal for a hearing at the Board level.
(Astle/Marshall: 3-2; Carrico and Villa dissenting)

H. 587 Haight St. J001-84A

The tenants prevailed on a decreased service reduction for problems associated with severe leaks, which they testified resulted in unusable living space, mushrooms on interior walls, and precipitation within the apartment. On appeal the landlord contested the allegations and requested a new hearing since she had not received notice of the hearing; a Declaration of Non-receipt of Notice of Hearing was filed with the Board.

MSC: To remand the case for a new hearing.
(Carrico/Marshall: 5-0)

V. Appeal Hearings

A. 762 Pine St. J001-59R & J001-66A
(accepted 1/10/89)

The tenant appeared with a non-attorney representative and a witness to support her appeal of capital improvement increases, based on financial hardship. The landlords represented themselves to support their appeal

of improper deletion of certain petitioned-for capital improvement increases. The Board had also noticed the parties that calculation errors in the decision would be reviewed at the hearing.

The elderly tenant testified that her current rent of \$435.00 was being increased by \$605.00 for allowed capital improvements, with an additional \$300.00 per month to cover the accumulated "retroactive" capital improvement increase. Health problems keep her from being employed, and she currently has to borrow money from relatives to make her rent payments.

The landlords testified that a further reduction in the allowed rent would create a financial hardship, possibly resulting in the sale of the property, since they have a monthly deficit and one of the landlords also has increasing health problems. The landlords questioned the disallowance of a substantial part of the improvements, which were certified by the estimator but deleted by the hearing officer without explanation.

After listening to testimony and taking documentary evidence, the Board encouraged the parties to recess to attempt a settlement. The parties returned to inform the Board that they had reached a settlement: The tenant will pay \$925.00 per month, plus an additional \$200.00 for the "retroactive" improvement charges; and she will be allowed to have a roommate to contribute to expenses.

It was the consensus of the Board to review the issues on the landlord's appeal, as well as possible calculation errors, for final decision at the February 14, 1989 Board meeting.

B. 1369 Hyde St.

J001-62R through J002-01R
(acct. 1/10/89)

All thirty-nine tenant-appellants appeared, represented by counsel, to support their appeals accepted on the issue of laundry room capital improvements, operating and maintenance petition time periods, decreased management services, and lack of sun roof access. The landlord appeared, represented by counsel, to defend his position.

Before continuing to the hearing, several procedural matters were dealt with. The following motion was passed:

MSC: To excuse Commissioner Stephenson from this hearing.
(Carrico/Villa: 5-0)

The landlord's counsel offered a motion to challenge for cause the participation of Commissioner Marshall, on the basis of bias. As this challenge had been raised unsuccessfully in court the previous day, it was the consensus of the Board to continue with the hearing; when so questioned, Commissioner Marshall declined to excuse herself from hearing the case. The landlord's motion was accordingly taken under submission. It was further understood that the landlord did not waive any objections which might be later raised in a higher forum; but in the interest of expediting the hearing, the landlord agreed to proceed
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on the record.

The tenants challenged the increase granted pursuant to the landlord's operating and maintenance petition. They believe that he should not be given a second operating and maintenance increase for the same purchase as an earlier increase which was granted and then disallowed on appeal remand; and that there was an overlap in the time periods used in the current petition and the earlier disallowed petition. They further questioned his documentation of expenses, as well as use of figures approved on the earlier petition, which were different from the figures originally submitted in the prior petition.

In rebuttal the landlord testified that there has been no manipulation of the time periods, that he simply used the two consecutive annual periods before the September 1st anniversary date that applies to all tenants in the building. Further, the landlord testified that he used figures approved by the earlier hearing officer since he believed they reflected the correct amounts; and that the hearing officer in the current case demanded complete documentation for each expense approved in the subject petition.

In challenging the inclusion of laundryroom work as a capital improvement, the tenants maintain that no reimbursement should be granted since the machines are coin-operated--thus giving the landlord a return on this investment--and that the services are more expensive and less satisfactory than in the past. On rebuttal the landlord testified that the laundryroom improvements were made at the request of the tenants, who complained about the prior arrangement. In order to upgrade the service, it was necessary to replace the plumbing and electric systems to meet the codes for the increased number of machines.

The tenant-appellants protested a decrease in management services, citing the reduction in number of managers--including those who reside on the premises--and the hours when this service is available. They specifically noted problems with lax security, poor routine maintenance and repair, garbage pile-up, and failure to deliver or notify tenants of package receipt. In rebuttal the landlord testified that although the distribution of tasks has changed, management duties are fully performed by on-site management, an outside management firm, various janitors, a repair company, and a weekend garbage collector. He further noted that the tenants had repeatedly complained about the services of the previous managers.

Finally, the tenants argued that they have been denied access to a sunroof previously provided for the use of all tenants, which was used extensively by residents and their guests. They stated that this glassed-in area was used by the prior managers as a selling point with prospective tenants; and that a list of rules for proper behavior was posted in the sunroof area by the former managers. On rebuttal the landlord testified that he had investigated this claim and been informed that any past use was without the authorization of management or owners. Further, his insurance carrier informed the landlord that the door to the roof must have bars, an alarm, and a sign designating that area as an emergency exit only.

After receipt of all testimony and evidence, it was the consensus of the Board that given the lateness of the hour, a decision on the appeals would be postponed to the February 14, 1989 meeting.

VI. Communications

The following items of communication were received by the Commissioners:

- A. A letter from the tenant at 508 Scott St.;
- B. The January 1989 Rent Board stastics;
- C. Letters from three members of the public concerning the proposed changes to the Rules and Regulations;
- D. A request for postponement of the appeal hearing for 731 Florida St., scheduled for February 14, 1988, which was granted;
- E. A memo from a Deputy City Attorney concerning filing an amicus brief in Kelly v. Yee;
- F. An addendum to opposition to appeal for 370 - 32nd Ave.;
- G. Comparative annual stastics for notices, petitions, and reports filed with the Rent Board, to be discussed at the February 14, 1989 meeting.

VI. Old Business

President Astle reported on the budget meeting held with the Mayor on February 6, 1989.

VII. New Business

- A. President Astle expressed her appreciation of the fine job performed by outgoing Board President, Tim Carrico. The other Board members concurred.
- B. Executive Director Ricardo Hernandez commended the Board for their handling of the public hearing.
- C. President Astle suggested that the following items be discussed in the future:
 - 1. A weekend scheduling of the Board's public meeting to discuss possible Rules & Regulations changes was suggested, to allow for sufficient time for the deliberations.
 - 2. The possibility of going into the communities for a solicitation of community concerns, as encouraged by the Mayor.
 - 3. Consideration of proposing noncontroversial legislation that reflects changes the Board deems important, such as placing a statute of limitation on the filing of writs, increase in fees, consideration of the Master Plan, etc.
 - 4. A meeting between the Commissioners and the District Attorney and City Attorney.

VIII. Calendar Items

February 14, 1989

- 6:00-- 4 appeal considerations
Appeal Hearing: 1048 Guerrero J001-55A (accpt. 1/24/89)
Old Business:
a. final decisions for--762 Pine St. (heard 2/7/89)
--1369 Hyde St. (heard 2/7/89)
b. Rent Board outreach/community meetings
c. comparative Rent Board statistics
d. discussion of weekend scheduling re: Rules & Regs.
e. possible legislative changes
f. meeting with the District Attorney and City Attorney
3 eviction case summaries

February 21, 1989

- 6:00-- 3 appeal considerations
appeal hearing: 679 Clementina J002-20R (accpt. 2/7/89)

IX. Adjournment

President Astle adjourned the meeting at 11:28 p.m.



NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
& ARBITRATION BOARD, Tuesday, 5:30 p.m.

February 14, 1989

State Building, 350 McAllister St. #1158

AGENDA

I. Call to Order

II. Roll Call

III. Approval of the Minutes

IV. Consideration of Appeals

A.	25 Sharon St. #3	J001-85A
B.	1400 Jones St.	J001-86A
C.	319 Arlington St.	J002-21R
D.	1400 Washington St.	J001-87A

V. Communications

VI. Director's Report

VII. Remarks from the Public

VIII. Consideration of Allegations of Wrongful Evictions

Report from Staff

A.	533 Cole St.	J002-02E
B.	140 Capistrano	J001-36E
C.	2506 Leavenworth	J001-33E

IX. Old Business

A. Decisions for appeals heard February 7, 1989:
762 Pine St. J001-59R & J001-66A
1369 Hyde St. J001-62R through J002-01R

B. Scheduling for the Board's public discussion of possible
Rules and Regulations changes

C. Rent Board outreach/community meetings

D. Comparative Rent Board annual statistics

E. Possible legislative changes

F. Meeting with the District Attorney & City Attorney

X. New Business

XI. Appeal Hearing

6:00 1048 Guerrero St. J001-55A (accepted 1/24)

XII. Calendar Items

XIII. Adjournment

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, February 14,
1989 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

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President Astle called the meeting to order at 5:36 p.m.

FEB 21 1989

II. Roll Call

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Commissioners Present: Astle; Hammill; Marshall;
Stephenson; Villa.
Commissioners not Present: How; Lipski; McGoldrick; Soulis.
Staff Present: Hernandez; Wolf.

Commissioner Carrico appeared on the record at 5:50 p.m.

III. Approval of the Minutes

The Commissioners were informed that the Minutes of January 24, 1989 have been corrected as follows: the date on the cover page was corrected to read January 24th instead of January 25th; page 2, appeal number 3 regarding 731 Florida Street #203: the appeal case number was corrected to read J001-67A instead of J001-69T and the first motion changed to MSF instead of MSC; page 4 was renumbered to page 5; and under Calendar Items, the case number for 731 Florida was again corrected.

MSC: To approve the Minutes of February 7, 1989 with the following correction: on page 4, regarding the case at 1369 Hyde Street, the first sentence of the last paragraph shall read "The landlord's counsel offered a motion to challenge for cause the participation of Commissioner Marshall, on the basis of bias because of a letter she had signed as Board President." (addition underlined). (Hammill/Villa: 4-0)

IV. Consideration of Appeals

A. 25 Sharon Street #3 J001-85A

The landlord appeals the hearing officer's decision granting the tenant in excess of \$7,000.00 due to past illegal rent increases. The landlord provides a recalculation of the overcharges, refunding only the amounts in excess of the allowed annual increases.

MSC: To uphold the hearing officer and deny the appeal.
(Marshall/Hammill: 4-0)

B. 1400 Jones Street

J001-86A

The landlord's petition for substantial rehabilitation was denied by the hearing officer, who found that: there was no determination of condemnation; much of the work was necessitated by the landlord's deferred maintenance; and the cost of the work necessary for health or safety reasons was insufficient to meet the threshold requirement for exemption from the Ordinance. On appeal, the landlord argues that: the requirement of condemnation would encourage owners to let their properties deteriorate; tenant objections to capital improvement work are inappropriate in cases of substantial rehabilitation; the Board's Regulations do not comport with the Ordinance; and the building did not meet current standards for safe, decent and sanitary housing.

MSC: To uphold the hearing officer and deny the appeal.
(Marshall/Hammill: 4-0)

C. 319 Arlington Street

J002-21R

The tenant's petition regarding the landlord's alleged failure to repair was dismissed due to his failure to appear at the properly noticed hearing. On appeal, the tenant alleges that statements by his landlord led him to believe the case was closed.

MSC: To accept the appeal and remand the case to the same hearing officer for another hearing. (Villa/Astle: 4-0)

D. 1400 Washington Street

J001-87A

Two prior rent increases based on increased operating expenses were denied due to the landlord's failure to make necessary repairs. In the instant case, the landlord again attempts to implement annual and operating expense increases, as well as capital improvement pass-throughs, and the tenants again defend due to alleged disrepairs. The hearing officer found proposed annual and operating expense increases inappropriate at this time and disallowed capital improvement increases due to the insufficiency of the landlord's documentation. On appeal, the landlord alleges that he did not receive a fair and impartial adjudication of the issues, and that the Rules and Regulations were violated in the disallowance of all capital improvements.

MSC: To deny the landlord's appeal without prejudice to re-filing. (Marshall/Villa: 4-0)

V. Communications

The Commissioners received the following communications:

A. A postponement request for the case at 679 Clementina Street (J002-20R) scheduled for February 21, 1989, which was granted by the Board.

B. A postponement request for the case at 731 Florida Street (J001-67A & J001-73A), scheduled for February 28, 1989, which was granted by the Board.

C. A letter to the San Francisco Chronicle from a tenant who believes the owner-occupancy exemption should be eliminated.

D. A Court of Appeal decision in the case of City and County of San Francisco v. Board of Permit Appeals; Ilyas Absar, Real Party in Interest.

E. Many comments from interested members of the public regarding proposed Rules changes.

F. A letter from a tenant's attorney regarding the case at 901-903 Pine Street, asking that the Board reconsider their denial of the tenant's appeal. Staff will draft a letter for President Astle's signature stating that there is no such procedure under the Ordinance.

VI. Appeal Hearing

1048 Guerrero Street

J001-55A

The appeal hearing commenced at 6:26 p.m. Both parties were present with their representatives and witnesses. The landlord had appealed the hearing officer's decision finding that he had not met the requisite burden of proof to establish owner-occupancy. At the original hearing, the landlord's evidence consisted mostly of affidavits sworn under penalty of perjury from individuals attesting that they had visited him at the subject unit. The tenant's evidence showed that the landlord's addresses listed in the phone book, on the grant deed for the property and with the Registrar of Voters were all different, and the tenant maintained that he saw the landlord in the building infrequently prior to the instant action.

Prior to commencement of the hearing, the following motion passed:

MSC: To excuse Commissioner Stephenson from the hearing and consideration on this case. (Villa/Hammill: 5-0)

At the appeal hearing, testimony centered on the reasons for the landlord maintaining various addresses and sworn attestations to his residency in the unit by his wife and other witnesses in attendance. Following testimony and arguments by the parties, the hearing closed at 9:10 p.m.; and the Board passed the following motion:

MSC: To overturn the hearing officer's decision and find that the landlord has lived in the subject unit as his principal place of residence since at least January 1, 1987. (Villa/Hammill: 4-1; Marshall dissenting)

VIII. Consideration of Allegations of Wrongful Evictions

Reports from Staff

A. 533 Cole Street

J002-02E

The subject matter arose due to the Haight Street fire, which caused some fire damage and substantial water damage to the unit. As one of the three rooms was rendered uninhabitable, one of the two tenants vacated. The landlord anticipated removing walls in several rooms in order to repair damaged outer siding, as well as making interior repairs. A notice was issued telling both tenants to move within 7 days; it stated that much more major work had to be done than was originally anticipated. No permits, advice clause or date of reoccupancy were included. The landlord did not respond to Eviction Unit investigatory documents. At the hearing the landlord testified that he had not settled with his insurance company yet; did not believe permits were needed; and did not intend to pay moving expenses since he didn't start the fire.

Recommendation: To inform the landlord of the legal requirements for temporary termination of tenancy for improvements; and to monitor.

B. 2506 Leavenworth

J001-33E

The subject building is in need of substantial renovation. The tenant received a termination notice, apparently for demolition, although this was not clear. The tenant sent written notice of his desire to reoccupy the unit when any work was completed. The landlord and his attorney engaged in a series of questionable actions, including: having hearings rescheduled and then failing to appear; refusing to comply with the procedural requirements for any of the just causes cited; and claiming that the building is exempt due to its being "unsafe." The tenant has moved as part of a satisfactory settlement.

Recommendation: To write the landlord and his attorney cautionary letters, suggesting they carefully inform themselves of the requirements of the Ordinance and, in the future, abide by the laws governing both building and rental codes.

C. 140 Capistrano

J001-36E

Although no formal eviction notice was served, the landlord wrote the tenant suggesting that she move "due to her unhappiness with the apartment." The tenant had repeatedly complained about what she felt was excessive noise, including filing police reports and a decreased services petition. The owner testified that she sent the letter because she couldn't deal any longer with the tenant's constant complaints and had decided to sell the building; she believed possible sale was a reason for terminating a tenancy. The tenant believed the landlord's actions were retaliatory.

Recommendation: A mild, cautionary letter should be sent to the owner.

MSC: To accept staff's recommendations regarding the first two cases; but to continue the third case for one week in order to review the file and receive additional information from the Eviction Unit Supervisor.
(Marshall/Hammill: 5-0)

VIII. Old Business

The Board discussed two cases heard on February 7, 1989 that were continued due to the lateness of the hour. After discussing the evidence and testimony, the Commissioners passed the motions below:

1. 762 Pine Street J001-59R and J001-66A

MSF: To certify all improvements approved in the decision and raised in the appeal, but not for this tenant. (Carrico/Villa: 2-3; Astle, Hammill, Marshall dissenting)

MSC: To certify item #1 from the landlord's appeal; of item number 2, to certify the window costs but not the doors; to deny item numbers #3, 4, 5 and 6; and to uphold the rest of the hearing officer's decision.
(Marshall/Hammill: 3-2; Carrico and Villa dissenting)

MSC: To accept the parties' settlement agreement as the Board's decision in this case.
(Carrico/Villa: 5-0)

2. 1369 Hyde Street J001-62R through J002-01R

MSC: To excuse Commissioner Stephenson from consideration of this case.
(Villa/Hammill: 5-0)

MSF: To deny the operating expense increase based primarily on debt service.
(Marshall/Hammill: 2-3; Astle, Carrico, Villa dissenting)

MSC: To grant the operating expense increase, with the following stipulations: to put 3 debt service payments in Year 1; to eliminate consulting fees from management costs in Year 2; and to exclude wages and "questionable expenses" from Year 2.
(Carrico/Marshall: 5-0)

MSC: To grant a 5% reduction in base rent for lack of roof access to those tenants who filed on this issue. (Marshall/Hammill: 5-0)

- MSC: To find that the change in management services does not constitute a substantial decrease in housing services.
(Carrico/Villa: 5-0)
- MSC: To deny capital improvement certification of laundry room costs. (Marshall/Hammill: 5-0)

B. The Board will discuss proposed changes to the Rules and Regulations at their next two meetings.

C. The Board will attempt to hold a meeting in the Tenderloin community in April, possibly at the Cadillac Hotel.

D. President Astle will attempt to arrange meetings with the District Attorney and City Attorney, hopefully with the participation of Vice-President How.

IX. Calendar Items

February 21, 1989

3 appeal considerations

Eviction Report: 2506 Leavenworth (J001-33E cont. from 2/14/89)

Old Business: Comparative Rent Board annual statistics;

Proposed Rules and Regulations changes.

February 28, 1989

4 appeal considerations

1 eviction reconsideration

Old Business: Status of Eviction Cases Referred; Proposed Rules and Regulations changes.

Appeal Hearing

6:00 679 Clementina J002-20R (accepted 2/7/89;
postponed from 2/21/89)

X. Adjournment

President Astle adjourned the meeting at 10:29 p.m.



NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
& ARBITRATION BOARD, Tuesday, 5:30 p.m.

February 21, 1989

State Building, 350 McAllister St. #1158

AGENDA

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FEB 21 1989

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- I. Call to Order
- II. Roll Call
- III. Executive Session [Govt. Code Section 54956.9(a)]
 - A. Sylvester v. Rent Board, Superior Court No. 901184
 - B. Chestnut Place v. Rent Board, Superior Court No. 895614
- IV. Approval of the Minutes
- V. Consideration of Appeals
 - A. 919 Sutter St. J001-88A
 - B. 2124 Hyde St. #2 & #3 J001-89A
 - C. 1953-B Grove St. J001-90A
- VI. Communications
- VII. Director's Report
- VIII. Remarks from the Public
- IX. Consideration of Allegations of Wrongful Evictions
 - Report from Staff
 - 2506 Leavenworth St. J001-33E (cont. from 2/14)
- X. Old Business
 - A. Comparative Rent Board annual statistics
 - B. Proposed Rules and Regulations changes
- XI. New Business
- XII. Calendar Items
- XIII. Adjournment

1619A



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, February 21,
1989 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

Commissioner Marshall, in the absence of the president and
vice-president, called the meeting to order at 5:40 p.m.

DOCUMENTS DEPT
FEB 27 1989

II. Roll Call

Commissioners Present: Lipski; Marshall; Stephenson;
Soulis; Villa.
Commissioners not Present: Hammill and How.
Staff Present: Hernandez; O'Hearn.

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Commissioner Astle appeared at 5:42 p.m. Commissioner Carrico appeared
at 5:46 p.m. Commissioner McGoldrick appeared at 5:55 p.m.

III. Executive Session

The Board went into closed session pursuant to Government Code Section
54956.9(a) to discuss with the Deputy City Attorney pending
litigation: Chestnut Place v. Rent Board, Superior Court No. 895614,
and Sylvester v. Rent Board, Superior Court No. 901184. Having already
vacated its decision on October 11, 1988, subject only to any
stipulation between the parties concerning a re-hearing, the Board
agreed to schedule a hearing on the Chestnut Place case as soon as
possible. After returning to regular session at 6:24 p.m., President
Astle announced that the Board passed the following motion:

MSC: To vacate its decision denying the tenants' appeal in
the Sylvester case and schedule a hearing on the
matter. (Carrico/Marshall: 5-0)

IV. Approval of the Minutes

MSC: To approve the Minutes of February 14, 1989 as
written. (Marshall/Villa: 5-0)

V. Consideration of Appeals

A. 919 Sutter St. J001-88A

The landlord appeals the hearing officer's denial of a capital
improvement increase for a new roof. The landlord sent a
representative to the hearing who had no knowledge about the condition
of the roof, but who testified that the roof work was necessary due to
damage caused by a contractor who was performing parapet work.

1631A

The landlord failed to submit any further documentation as requested and within the 12-day period granted by the hearing officer. On appeal, the landlord explains the failure to timely respond as well as contradictory argument to the testimony presented on his behalf at the hearing. After discussing the matter and acknowledging that the hearing officer's decision is correct based on the record before the hearing officer, the Board passed the following motion:

MSC: To remand the case for another hearing.
(Carrico/Villa: 5-0)

B. 2124 Hyde St. #2 & #3 J001-89A

The landlords appeal the hearing officer's decision on remand pursuant to the tenants' appeals of the original decision which granted a second operating and maintenance increase. The Board previously remanded the case on October 25, 1988 solely on the issues of debt service and repairs with instructions to disallow debt service costs because they reflected a second increase based on the same purchase and to re-examine the repair costs. The result of the remand decision was to deny any additional operating and maintenance increase.

On appeal, the landlords dispute the findings in the original decision concerning taxes, insurance and legal fees, all of which were adopted in the remand decision.

Prior to Board discussion on the matter, the Board passed the following motion:

MSC: To excuse Commissioners Carrico and Stephenson from consideration of this case. (Villa/Marshall: 5-0)

The Commissioners then discussed and passed the following motion:

MSC: To remand the case solely on the issue of the proper allocation of insurance costs.
(McGoldrick/Marshall: 5-0)

C. 1953-B Grove St. J001-90A

The landlord appeals the hearing officer's decision on remand pursuant to the landlord's appeal of the original decision. The Board remanded the case on November 29, 1988 with instructions to reconsider the issue of base rent to include the costs of housing services for the unit. In the instant appeal, the landlord states that errors were made in rent overpayment calculations based on errors regarding the amount of rent paid. Staff previously mailed a notice of proposed correction to the parties who had not objected to the corrections.

MSC: To deny the appeal due to the resolution of the issues. (Marshall/McGoldrick: 5-0)

VI. Communications

The Commissioners received the following communications:

A. The February 28, 1989 calendar for the Board of Supervisors Land Use Committee which includes a hearing to consider what coordination efforts are being considered between the Public Utilities Commission, Water Department and Rent Board concerning whether water penalty pass-throughs may be charged to tenants.

B. The Notice of Hearing on March 9, 1989 by the Planning Commission to consider allowing the legalization of all existing unlawful dwelling units.

C. The agenda for the annual meeting on February 26, 1989 of Golden Gateway Tenants Association, at which the Rent Board executive director will be a guest speaker.

D. Summaries of two court decisions (Bakanauskas v. Urdan and Baskin v. City of Berkeley Rent Stabilization Board) concerning rent control in the February 1989 summary of the California Real Estate Reporter.

E. A letter from tenants of 2209 Gough St. complaining about their landlord's real estate agent.

F. Two additional letters concerning proposed rule changes, one of which was submitted on February 14th after staff had left for the Board meeting and one of which was submitted on February 16th, after the public comment period closed.

VII. Director's Report

The Executive Director reported on his appearance on a call-in program on KGO radio on February 19th.

VIII. Consideration of Allegations of Wrongful Eviction

Report from Staff (cont. from 2/14)

The Eviction Unit Supervisor submitted a memo in response to the Commissioners' concerns regarding 140 Capistrano St. [J001-36]. However, since another case was mistakenly place on the agenda instead of this one, the Commissioners continued the case to the next meeting.

IX. Old Business

A. The Executive Director handed out statistics on capital improvement petitions to supplement prior figures on other petitions. He noted that the Tenderloin and the Mission neighborhoods have the most units affected by these petitions.

X. Calendar Items

February 28, 1989

4 appeal considerations

1 eviction reconsideration

Old Business: Status of Eviction Cases Referred; Proposed Rules and Regulations changes.

Appeal Hearing: 679 Clementina St.- J002-20R (accepted 2/7/89; postponed from 2/21/89)

March 7, 1989

Appeal Hearing: 900 Chestnut St.- H002-47T through H002-60R (heard 5/12/87, decided 6/9/87, vacated 10/11/88)

March 14, 1989

Appeal Hearing: 731 Florida St.- J001-73A (accepted 1/24; postponed from 2/28/89)

IX. Old Business (Cont.)

B. Proposed Amendments to Rules and Regulations

The Commissioners began discussing proposed rule changes in chronological order, deferring consideration of more difficult issues. Amendments to Section 1.13, the definition of capital improvements, was deferred for consolidation with Part 7, Landlord Applications for Certification of Capital Improvements.

The Board approved the following motions:

- MSC: To amend Section 1.15(e), which excludes certain owner-occupied units from the definition of Rental Units, as proposed and with revisions suggested by hearing officer Rennika Pickman-Thoon. (Marshall/Villa: 5-0)
- MSC: To amend Section 2.10 to permit alternate Board members to be elected as Board officers. (Marshall/Villa: 5-0)
- MSC: To amend Section 2.11 to permit alternate Board members to preside over appeal hearings. (Marshall/Villa: 5-0)
- MSC: To amend Section 6.10(a), concerning increase petitions based on operating and maintenance costs, as proposed and with clerical and editorial corrections, effective February 28, 1989. (Marshall/McGoldrick: 5-0)
- MSC: To amend Section 6.10(b), concerning operating expenses, as proposed and with clerical and editorial corrections. (Villa/Carrico: 5-0)
- MSC: To amend Section 6.10(c), concerning the allowable operating expense increase, as proposed. (Marshall/Carrico: 5-0)

MSC: To amend Section 6.10(d), also concerning the allowable operating expense increase, as proposed.
(Marshall/Carrico: 5-0)

The Commissioners then began discussing the two options proposed for Section 6.10(d) concerning treatment of increased costs due to refinancing or a change in ownership: one relating to debt service and/or property taxes; and one relating only to debt service. They agreed to defer action to another meeting.

XI. Adjournment

President Astle adjourned the meeting at 7:59 p.m.



NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
& ARBITRATION BOARD, Tuesday, 5:30 p.m.

February 28, 1989

State Building, 350 McAllister St. #1158

AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals
 - A. 213-A Bocana St. J001-91A
 - B. 1391 - 8th Ave. #5 & #14 J001-93A
 - C. 435-A Tehama St. J002-22R*
 - D. 1560 McAllister St. #11 J001-92A
- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions
 - A. Report from Staff
 - 1. 140 Capistrano St. J001-36E (cont. from 2/21)
 - 2. 654-A Chenery J002-17E
 - 3. 3786 - 24th St. #6 I004-77E
 - 4. 1416 Grant St. J001-01B & J005-10E
 - 5. 1426-28 Guerrrero St. J001-02B & I005-11E,
 - I005-22E through I005-24E
 - 6. 865 Capp St. J001-17E
 - B. Request for Reconsideration
 - 590 - 36th Ave. J001-94A
- IX. Old Business
 - A. Status of Eviction Cases referred for legal action
 - B. Proposed Amendments to Rules & Regulations
- X. New Business
- XI. Appeal Hearing
 - 6:00 679 Clementina St. J002-20R (accepted 2/7;
postponed from 2/21)
- XII. Calendar Items
- XIII. Adjournment

* Appeal withdrawn 2/23/89.

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#2 2/28/89

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD, Tuesday, February 28, 1989 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

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I. Call to Order

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President Astle called the meeting to order at 5:33 p.m. SAN FRANCISCO PUBLIC LIBRARY

II. Roll Call

Commissioners Present: Astle; Carrico; Hammill; How; Stephenson; Villa.
Commissioners not Present: Lipski, McGoldrick, Soulis.
Staff Present: Hernandez, Wicks.

Commissioner Marshall appeared on the record at 7:22 p.m. Commissioner Villa went off the record at 7:50 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of February 21, 1989, as written. (Carrico/Hammill: 5-0)

IV. Consideration of Appeals

A. 213-A Bocana St. J001-91A

The tenant moved into the property in August 1988 with an understanding that the absentee landlord would take care of the things that needed to be done to make the unit fully habitable. However, the stove was installed improperly and resulted in both PG&E and the Fire Department visiting the unit and declaring the stove unsafe for use. There was no working heater until the landlord told the tenant to purchase a space heater and deduct it from her rent. When the tenant attempted to use the common storage area, the other tenants--friends of the landlord and apparently acting on his behalf--refused her access. The hearing officer gave a rent reduction for lack of heater, inoperable stove, and exclusion from the common storage area. On appeal the landlord insisted that the stove was repaired.

MSC: To uphold the hearing officer and deny the appeal. (Hammill/Stephenson: 5-0)

B. 1391- 8th Ave. J001-93A

The case, involving capital improvement certification, was remanded on appeal after the hearing officer denied the landlord's petition without prejudice due to the insufficiency of the landlord's documentation. There was no appearance at the remand hearing by the landlord, nor did he inform the Board that he could not attend. The hearing officer

dismissed the case with prejudice. On appeal the landlord stated that he could not attend the January 3, 1989 hearing because he had fallen and fractured ribs on December 22, 1988.

MSC: To excuse Commissioner Stephenson from this consideration. (Hammill/How: 5-0)

MSC: To deny the appeal without prejudice to refile. (Carrico/How: 4-0)

C. 1560 McAllister St. #11 J001-92A

At the hearing on the tenant's petition for unlawful rent increase, the landlord neither appeared nor sent a request for postponement. During the length of the five year tenancy, four different landlords have owned the property. The hearing officer found that one rent increase under a prior landlord and two increases by the present landlord were null and void either because they were beyond the allowable amount or were imposed less than one year after the previous increase. On appeal the current landlord stated that he had not received notice of the hearing or the decision because the tenant had given the Rent Board the wrong address. Further, the landlord argued that he had taken one of the tenant's alleged old rent increase notices to a handwriting expert and persons acquainted with that owner, and all indicated it was not that prior owner's signature.

MSC: To remand the case for a new hearing. (Carrico/Stephenson: 5-0)

V. Communications

The Board received the following communications:

- A. A letter from the Executive Director of the Tenderloin Housing Clinic, urging the Board to deal with the proposed Rules and Regulations changes as quickly as possible;
- B. Statistics from a group of landlords concerning Rent Board capital improvement petitions;
- C. A letter from a tenant to Supervisor Ward supporting vacancy control;
- D. The appeal decision for 1048 Guerrero St., which was approved with revisions;
- E. A letter from a member of the public concerning the proposed changes to the Rules and Regulations.

VI. Director's Report

- A. Executive Director Ricardo Hernandez told the Commissioners that he had recently spoken to the Golden Gateway Tenants' Association.

- B. Mr. Hernandez addressed the Board of Supervisors Land Use Committee on the issue of water costs, and Commissioner Carrico suggested a method for passing through the increases under the Ordinance.
- C. Mr. Hernandez discussed the work done on the environmental impact report for the proposed legislation concerning unreinforced masonry buildings.

VII. Remarks from the Public

Landlord Jim Stevens commented on his appeal for 1560 McAllister.

VIII. Appeal Hearing

679 Clementina St.

J002-20R (accepted 2/7/89;
continued from 2/21/89)

The tenant had appealed a decision on remand, concerning the setting of a base rent amount for his unit, following his resignation as master-lessor and handyman for a three-unit building in which he had resided. The appellant had originally been granted the right to rent and fully supervise the property for a number of years, paying the owner a flat fee for the building.

At the first hearing, the hearing officer approved the base rental amount of \$700 which the owner asked for the tenant's own unit. On remand the Board instructed the hearing officer to determine who had the burden of proof and to accept new evidence on the issue of proper base rent. On remand the hearing officer indicated that the appellant could not establish a base rent value and that, accordingly, the \$700 originally agreed to by the parties was approved.

In addition to issues raised in the hearings below, the landlord stated that the value of the tenant's seven-room unit--which he sublets for \$400 per month--plus the reinstated deduction for the value of his managerial services would result in a rent of over \$1,000. In attempting to reach the value of the tenant's unit the Board learned that the two four-room units in the building currently rent for \$400 each; and the tenant estimated the value of his services as \$500 per month. After listening to testimony, the Board passed the following motion:

MSC: To uphold the hearing officer and find that the base rent was established in March 1988 at \$700.00 per month. (Carrico/How: 5-0)

IX. Consideration of Allegations of Wrongful Eviction

A. Report from Staff

- 1. 140 Capistrano St. J001-36E

After further review of the matter continued from the meeting of February 21, 1989, the Board passed the following motion:

MSC: To accept Staff's recommendation to write the landlord a cautionary letter, advising her to obtain legal advice before attempting future evictions.
(How/Hammill: 5-0)

2. 654A Chenery J002-17E

This matter was removed from the agenda.

3. 3986-24th Street I004-77E

The parties have a history of dispute, and termination notices and warning letters have been given on several occasions, sometimes in questionable circumstances. Shortly after one of these disputes, the tenant received a termination notice for the landlord's son to reside in the building. The recorded deed on the property is in the name of a corporation, the landlord's business. An identical unit in the building is being used illegally, without the landlord's knowledge, as a commercial establishment.

Evaluation & Recommendation: A corporation is not entitled to evict for a relative. The hearing officer recommended that the landlord demonstrate his good faith by evicting the commercial enterprise from the building and having his son take over that apartment. The Board was asked to monitor the situation and have the Eviction Staff write the landlord a letter stating that the Board will take further legal action of the landlord attempts to evict on this set of facts.

MSC: To accept Staff recommendation. (Marshall/How: 5-0)

4. 1416 Grant Ave. J001-10B, J005-10E, J001-19E,
J001-25E

This case, previously the subject of a cautionary letter of concern to the landlord from the Board President, was updated for the Board. The Landlord's Petition for Extension of Time was denied since the landlord knew before the project began that it would take more than 3 months to compete the work; despite repeated reminders from the Rent Board--through letter and decision--that he must file, he delayed doing so for several months. Also, on the time extension petition, the landlord knowingly understated the time needed to finish the work.

The landlord was also cautioned about giving the tenants' adequate legal notice of their right to reoccupy their units after construction was finished; and he was told that he might not be legally entitled to force the tenants to sign detailed rental agreements when they had only oral agreements with a previous owner. Recently several tenants have approached the Board to protest the measures taken by the owner in not allowing tenants to reoccupy unless they signed the above-mentioned detailed agreement as well as a settlement document which, essentially, allowed the landlord an increase for the improvement work without filing with the Rent Board.

Evaluation & Recommendation: The landlord has repeatedly neglected or refused to abide by the provisions of the law which have been made clear by the Eviction Unit, several hearing officers, and the Commissioners. It is recommended that the matter be set for hearing by the Board to consider referral to the District Attorney.

MSC: To accept Staff recommendation and set the matter for a hearing with possible referral to the District Attorney.
(Marshall/Hammill: 5-0)

5. 1426-1428 Guerrero St. J001-02B & I005-11E, I005-22E
through I005-25E

The Board previously wrote the landlord a cautionary letter concerning his improper attempts to terminate tenancies for capital improvement work. The evictions were judged to be wrongful on several counts, and the cases were continuing to be monitored. In the recent Landlord's Petition for Extension of Time, the hearing officer found the additional time needed was reasonable but found unsupportable the landlord's failure to file for five months after having been informed by the Board on several occasions that his petition was legally required. The tenants have reoccupied their apartments but complain that they have received illegal banked rent increases and protest the landlord's continuing construction in their units. The property is for sale.

Evaluation & Recommendation: The landlord has clearly acted improperly in the past. The matter should be fully monitored and further Board action should be considered if it is found that the landlord is continuing to act improperly.

MSC: To accept Staff recommendation. (Marshall/Hammill:
5-0)

6. 865 Capp Street J001-15E through J001-17E

This case was the subject of a wrongful eviction hearing before the Commissioners, at which time the Board found that both the landlord and his attorney were involved in wrongful eviction attempts, with referral of the attorney to the Bar Association and District Attorney. One of the tenancies is again the subject of an eviction attempt, for recovery by the landlord and several of his family members as their residence. These tenants had originally received a termination notice for the landlord's "family," then for use by his brother; the first two notices were legally defective.

Evaluation & Recommendation: In order for the Commissioners to decide if further action is needed, Staff shall inquire if any other tenants in the building are being evicted or if there is any evidence of wrongdoing. It was the consensus of the Board to ask Staff to so investigate and report back to them.

1635A

B. Request for Eviction Reconsideration

590 - 36th Avenue

J001-94A

The landlord's attorney requested reconsideration of the hearing officer's determination which found a wrongful eviction for defective notice; failure to obtain all necessary permits or proceeding when permit approval had been suspended; and lack of due diligence by the landlord's attorney in investigating the tenant's information that the outstanding permit had been suspending, pending a determination on the tenant's appeal.

The central issue in the reconsideration was the attorney's objection to the hearing officer's assessment that the attorney acted improperly in failing to investigate the tenant's claim that the permit had been suspended; and that the resulting termination notice was therefore given in bad faith since there was no valid permit. At the hearing the attorney repeatedly denied having a conversation with the tenant about suspended permits. However, the tenant had inadvertently taped the conversation, and the hearing officer listened to the tape--with approval of both sides--merely to verify that the attorney was on notice of suspended permits.

Evaluation & Recommendation: To deny the Reconsideration Request and to write a letter to the landlord and to his attorney.

MSC: To accept the Staff's recommendation to deny the Reconsideration Request and write letters to the landlord and his attorney. (Marshall/Hammill: 5-0)

X. Old Business

- A. The topic of referral of cases to the District Attorney will be placed on a later agenda.
- B. Proposed Amendments to Rules and Regulations

The Board discussed revision of several of the draft proposed rules changes. Amendments to Sections 6.11 (Comparables) and 6.14 (Agreements to Pay Additional Rent for Changes of Tenants) will be revised and returned for discussion at the next meeting.

The Board approved the following motions:

- MSC: To amend Section 1.13 to clarify the difference between a capital improvement and a repair, as proposed and with editorial revisions. (Marshall/Carrico: 5-0)
- MSC: To amend Section 6.10 to add subsection (e), dealing with rent increases allowed upon refinancing; and to revise subsection (g), explaining use of funds gained through refinancing, as proposed and with editorial revisions. (Marshall/How: 5-0)

XI. Calendar Items

March 7, 1989

1 appeal consideration

6:00- appeal hearing: 900 Chestnut H002-47T through H002-60R
(heard 5/12/87, decided 6/9/87, vacated 10/11/88)

Old Business: Proposed Rules and Regulations changes;
Considering scheduling a day for discussing
proposed Rules changes

March 14, 1989

2 appeal considerations

6:00- Appeal Hearing: 731 Florida J001-73A (postd. from 2/28/89)

Old Business: Proposed Rules and Regulations Changes

XII. Adjournment

President Astle adjourned the meeting at 9:12 p.m.



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NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
& ARBITRATION BOARD, Tuesday, 5:30 p.m.
March 7, 1989

State Building, 350 McAllister St. #1158

AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeal
543 Buena Vista #2, 4, 6 & 7 J001-95A
- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions
- IX. Old Business
 - A. Proposed Amendments to Rules and Regulations
 - B. Possible Special Meeting for Rules & Regulations Amendments
- X. New Business
- XI. Appeal Hearing
6:00 900 Chestnut St. H002-47T through H002-60R
(heard 5/12/87, decided 6/9/87, vacated 10/11/88)
- XII. Calendar Items
- XIII. Adjournment

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, March 7, 1989
at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

President Astle called the meeting to order at 5:30 p.m.

II. Roll Call

Commissioners Present: Astle; Hammill; How; Lipski;
Marshall; Stephenson; Soulis;
Villa.

Staff Present: Hernandez; O'Hearn.

Commissioners McGoldrick and Carrico appeared on the record at 5:37
p.m. and 5:45 p.m., respectively.

III. Approval of the Minutes

MSC: To approve the Minutes of February 28, 1989 as
written. (How/Hammill: 5-0)

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MAR 13 1989

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IV. Consideration of Appeal

543 Buena Vista West

J001-95A

The landlord appeals the hearing officer's decision on his petition for rent increases based on capital improvements and on increased operating expenses. The landlord objects to the disallowance of legal expenses of almost \$26,000 incurred as a result of an unsuccessful eviction attempt. After adjustment of other operating costs consistent with documents provided by the landlord, no operating expense increase was justified.

Additionally, the hearing officer determined the proper base rent for unit 2, based on a null and void increase imposed in 1983. The landlord objects to the resulting rent overpayments, stating that the tenant voluntarily set the increase.

MSC: To deny the appeal. (Hammill/Stephenson: 5-0)

V. Communications

The Commissioners received the following communications:

A. A letter from the landlord's attorney regarding settlement and requesting postponement of the hearing on 900 Chestnut Street, which the Board agreed to postpone to March 28th;

1646A

B. A letter from Golden Gateway Tenants Association thanking the Executive Director for speaking at the annual meeting;

C. A letter from a tenant regarding capital improvement passthroughs;

D. The Board Decision for 762 Pine Street, Appeal Nos. J001-66A & J001-59R, heard on February 7, 1989, which was approved and signed; and

E. The Planning Department's Notice of a Community Forum on pending work on the residence element of the Master Plan.

VI. Director's Report

The Executive Director announced his resignation from the Rent Board because he has accepted a position as the County Public Guardian/Public Administrator.

Following the Director's exchange of remarks with the Commissioners, President Astle proposed to contact the Mayor for input in the Board's appointment of a successor. The Commissioners also agreed to begin discussion of this matter at the next Board meeting.

VII. New Business

The Deputy Director reported that the Board would need to consider a revised conflict of interest code. A draft resolution would be prepared and sent for the next Board meeting.

VIII. Calendar Items

March 14, 1989

2 appeal considerations

6:00- Appeal Hearing: 731 Florida J001-73A (postd. from 2/28/89)

Old Business: Proposed Rules and Regulations Changes

March 21, 1989

2 appeal considerations

Old Business: Proposed Rules and Regulations Changes

IX. Old Business

Proposed Amendments to Rules and Regulations

The Board discussed revision of several of the draft proposed rules changes. Amendments to Sections 6.11 (Comparables) and Part 7 (Capital Improvements) will be discussed at a future meeting.

The Board approved the following motions:

MSC: To add Section 12.19 providing procedures when tenants are forced to vacate due to fire or other disaster, as proposed with editorial revisions.
(McGoldrick/Marshall: 5-0)

- MSC: To amend Section 12.14 concerning evictions for owner or relative occupancy, as proposed with revisions to subsection (a) as suggested by Hearing Officer Pickman-Thoon. (Marshall/McGoldrick: 5-0)
- MSC: To add Section 6.14 concerning agreements to pay additional rent for change of tenants, as proposed with revisions suggested by Commissioner Hammill and the deputy director. (Marshall/McGoldrick: 5-0)
- MSC: To amend Section 6.14 to reflect "A" and "B" in the example instead of the names "Alice" and "Bob." (Marshall/McGoldrick: 5-0)
- MSC: To amend Section 11.15 concerning conciliation attempts in certain cases, as proposed. (Carrico/How: 5-0)
- MSC: To replace Section 11.17 on the conduct of hearings, as proposed. (Carrico/Marshall: 5-0)
- MSC: To amend Section 11.25 on reimbursement of tenant filing fees, as proposed. (Carrico Marshall: 5-0)
- MSC: To amend Section 10.10 regarding tenant petitions based on a decrease in service, as proposed with amendments to subsection (a)(2) (Carrico/McGoldrick)
- MSC: To amend the motion to amend Section 10.10 to substitute language in subsection (d) for "in extraordinary circumstances." (Marshall/McGoldrick: 5-0)
- MSC: To amend Section 10.11 regarding tenant petitions based on failure to perform ordinary repair and maintenance, as proposed except for the deletion of subsection (c). (Marshall/McGoldrick: 5-0)

X. Adjournment

President Astle adjourned the meeting at 7:40 p.m.



NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
& ARBITRATION BOARD, Tuesday, 5:30 p.m.

March 14, 1989

State Building, 350 McAllister St. #1158

AGENDA

DOCUMENTS DEPT.

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals
- A. 60 Leavenworth St. J002-23R through J002-28R
units 23, 27, 31, 34, 35 & 43
- B. 337 Carl St. J001-96A
- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions
- Report from Staff
- A. 2885 - 22nd St. J001-79E
- B. 865-B Capp St. J001-17E
- IX. Old Business
- Proposed Amendments to Rules and Regulations
- X. New Business
- A. Consideration and Adoption of New Conflict of Interest Code
- B. Discussion of Appointment of new Executive Director
- in part in Executive Session pursuant to Govt. Code 54957
- XI. Appeal Hearing
- 6:00 731 Florida St. J001-67A & J001-73A
(accepted 1/24; postponed
from 2/14 and 2/28)
- XII. Calendar Items
- XIII. Adjournment
- 1642A

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, March 14,
1989 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

Vice-President How called the meeting to order at 5:35 p.m.

II. Roll Call

Commissioners Present: Carrico; Hammill; How; Lipski;
McGoldrick; Stephenson.
Commissioners Absent: Soulis; Villa.
Staff Present: Wolf.

Commissioners Marshall and Astle appeared on the record at 6:20 and
6:29 p.m., respectively. The Deputy Director, Barbara O'Hearn,
appeared at 7:15 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of March 7, 1989 as written.
(Carrico/McGoldrick: 5-0)

IV. Consideration of Appeals

A. 60 Leavenworth Street, #23
27, 31, 34, 35 and 43 J002-23R through J002-28R

The tenants in six units appeal the hearing officer's decision
certifying capital improvement increases due to substantial renovation
of the building. The tenants maintain that the work was done in order
to convert the building to transient use, and not to enhance the
existing residential tenancies.

MSC: To accept the appeal and schedule a hearing before the
Commissioners. (McGoldrick/Stephenson: 5-0)

B. 337 Carl Street J001-96A

The landlord appeals the hearing officer's decision granting a rent
reduction due to the lack of a working heating unit for two months in
the winter. The landlord failed to attend the hearing, which had been
re-scheduled upon his request, and maintains that the 30% reduction is
excessive as the furnace was old and the necessary part was difficult
to locate.

MSC: To deny the appeal. (Stephenson/McGoldrick: 5-0)

V. Communications

The Commissioners received the following communications:

A. Three letters regarding proposed changes to the Rules and Regulations.

B. An item from the San Francisco Chronicle regarding Executive Director Ricardo Hernandez' appointment as Public Administrator/Public Guardian.

C. A letter from the Clerk of the Board of Supervisors on behalf of Supervisor Nelder, requesting input from the Rent Board regarding inquiries received due to excess water usage penalties and possible solutions for handling allocation of these costs in a fair manner. Staff will draft a response for the Board's review.

VI. Evictions

Report From Staff

A. 2885 22nd Street

J001-79E

The landlord maintained that the property was exempt due to owner-occupancy. However, his business and not his residence is located in two of the four units and excessive rent increases were therefore declared null and void.

There has been a history of some late payment of rent; this problem was exacerbated by the landlord's unilaterally changing the rent due date from the 15th to the 1st of the month. By defective 3 day notice, the landlord attempted to evict due to late payment and additional tenants in the unit. At the hearing, the landlord could not offer any evidence of additional occupants in the unit, nor did he submit documents regarding the tenant's rent history, as requested by the hearing officer.

RECOMMENDATION: that the Eviction Unit Supervisor write a letter informing the landlord that the Board has reviewed the matter and suggesting that he consult an attorney in the future prior to taking legal action.

MSC: To accept staff's recommendation. (Lipski/McGoldrick:
5-0)

B. 865 Capp Street

J001-17E (update)

This case was the subject of a Board hearing on December 13, 1988. At that time, a wrongful eviction attempt was found, as the landlord wanted 3 units in the building, one for storage space. New eviction notices have been issued for the landlord and his family. The Board had asked the Eviction Unit Supervisor to investigate whether more than one tenant in the building is currently being evicted. It appears that the landlord now wishes to obtain two units in the building; one for 1649A

himself and one for his older children. The Eviction Unit Supervisor asks the Commissioners to advise as to the course of action they wish her to pursue.

MSC: To continue to monitor this case but take no further action at this time. (Stephenson/Lipski: 5-0)

VII. Appeal Hearing

731 Florida Street #203

J001-67A and J001-73A

Vice-President How presided over the appeal hearing, which commenced at 6:07 p.m. The tenant was present with his non-attorney representative; the current owners were represented by their attorneys. The current and prior owner of the subject property separately appealed the hearing officer's decision determining rent overpayments of \$16,827.32. In their appeal, the landlords contend that the building is exempt from Rent Ordinance jurisdiction because: it is improved warehouse space for which a Certificate of Occupancy was not issued until February 1986; the owner had no knowledge of residential use of the unit prior to the effective date of the Ordinance; and the tenant does not reside on the premises but uses the property for commercial purposes. By motion seconded and carried, the Board affirmed that this unit is a live-work space covered by the Ordinance and denied the appeal in all respects except the amount of the overcharges, which was the subject of the instant hearing.

The prior owners were not in attendance at the appeal hearing. Testimony therefore centered on the current owner's feeling that they should not be held liable for actions of the prior owner, especially going back so many years; and the lack of bad faith in that the prior owners thought they were exempt from Rent Ordinance restrictions and the increases appear to have coincided with substantial work done on the building. Following testimony and arguments by the parties, the hearing closed at 6:50 p.m. and the Board passed the following motion:

MSC: To reduce the amount of the overpayment by allowing annual increases that could have been given and to set the correct base rent. (Carrico/How: 3-2; McGoldrick, Stephenson dissenting)

VIII. New Business

A. The Board briefly discussed the revised Conflict of Interest Code and passed the following motion:

MSC: To adopt the proposed resolution approving a Conflict of Interest Code and recommending adoption of the code to the Board of Supervisors. (Marshall/How: 5-0)

B. The Commissioners went into Executive Session at 7:20 p.m. pursuant to Government Code Section 54957 to discuss personnel matters, specifically the appointment of an interim Executive Director. The Board went back on the record at 7:44 p.m. after having made the following motions:

MSC: To appoint Deputy Director Barbara O'Hearn as interim Executive Director. (Marshall/McGoldrick: 5-0)

MSC: To have Ms. O'Hearn enter the position at Step 3 of the Salary Standardization Ordinance. (Marshall/McGoldrick: 5-0)

IX. Calendar Items

March 21, 1989 - 2 appeal considerations

Old Business:

- A. Discussion of new Executive Director; and
- B. Proposed Rules and Regulations Changes.

March 28, 1989 - 3 appeal considerations

Appeal hearing:

6:00 900 Chestnut Street H002-47T through H002-60R
(postponed from 3/7)

April 4, 1989 - 2 appeal considerations

Appeal Hearing:

6:00 60 Leavenworth Street J002-23R through J002-28R

X. Old Business

- A. Proposed amendments to Rules and Regulations

The Board discussed some of the draft proposed rules changes to Part 7 (Capital Improvements). Remaining proposed amendments to Section 6.11 (Comparables) and Part 7 will be discussed at the next meeting.

The Board approved the following motions:

MSC: To approve option 1 of Section 7.12(d) as proposed, but with a six-month time limitation. (Marshall/McGoldrick: 3-2; Carrico and How dissenting.)

MSC: To add Section 7.17 providing for administrative dismissal of certain capital improvement petitions, as proposed. (Carrico/Marshall: 5-0)

B. 1369 Hyde Street J001-62R through J001-99R

When rendering their appeal decision on February 14, 1989, the Rent Board Commissioners decided, among other things, to "exclude wages and 'questionable expenses' from Year 2." However, since the documentation in the record on which to determine the appropriate dollar amounts for these categories is unclear, the Rent Board Commissioners agreed to request written clarification from both parties for review at the next Board meeting.

XI. Adjournment

President Astle adjourned the meeting at 9:45 p.m.

NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
& ARBITRATION BOARD, Tuesday, 5:30 p.m.

March 21, 1989

State Building, 350 McAllister St. #1158

AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals
 - A. 437 Tehama Street J002-29R
 - B. 590 28th Avenue J002-30R
- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions
- IX. Old Business
 - A. Discussion of Duties and Recruitment of Executive Director
 - B. Proposed Rules and Regulations Changes
- X. New Business
- XI. Calendar Items
- XII. Adjournment

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, March 21,
1989 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

President Astle called the meeting to order at 5:37 p.m.

II. Roll Call

Commissioners Present: Astle; Hammill; How; Lipski;
Stephenson; Soulis.
Commissioners not Present: McGoldrick; Villa.
Staff Present: O'Hearn.

Commissioners Marshall and Carrico appeared on the record at 5:42 p.m.
and 5:50 p.m., respectively.

III. Approval of the Minutes

MSC: To approve the Minutes of March 14, 1989 as corrected
to reflect that Commissioners Soulis and Villa were
absent. (Stephenson/How: 5-0)

IV. Consideration of Appeals

A. 437 Tehama St. J002-29R

The tenant filed an appeal a month after the decision was mailed
claiming good cause for late filing due to their absence from the
country. The Board previously remanded the case pursuant to the
landlord's appeal of the original decision to permit the landlord to
prove the actual cost of kitchen renovations.

The Board also expressly permitted the tenants to raise any issues on
appeal of the remand decision since they claimed in response to the
landlord's appeal that they had not received notice of the petition or
of the original hearing on September 8, 1989. The tenants now raise
their objections on appeal and also claim hardship in paying the
approved passthrough of \$126.39 per month plus the additional
passthrough of \$13.55 approved on remand subject to hanging the
cabinets.

MSC: To accept the appeal for hearing before the
Commissioners on the issues of hardship and permissible
objections to the capital improvement passthrough.
(Stephenson/Hammill: 5-0)

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B. 590 - 28th Ave.

J002-30R

The tenant of this unit appeals the decision on remand pursuant to the appeal of tenants in another unit in the building who timely appealed the original decision of the hearing officer which was mailed to the parties on November 17, 1988. As a result of the other tenants' appeal, the hearing officer reduced the approved capital improvement passthrough of \$76.82 by \$12.24 based on a corrected allocation of the costs for the roof walkway. This tenant now seeks the benefits of the correction.

MSC: To remand the case to the hearing officer for proper allocation of the passthrough to this unit.
(Soulis/Marshall: 5-0)

V. Communications

The Commissioners received the following communications:

A. Responses from a tenant and from the landlord's attorney pursuant to the previous request concerning 1369 Hyde Street, Appeal Nos. J001-62R through J001-99R, for clarification on the dollar amounts for "wages and questionable expenses from Year 2;"

B. A letter from the Clerk of the Board of Supervisors on behalf of Supervisor Kennedy requesting various rental information and a draft response on which the Commissioners proposed revisions;

C. A memo from the Mayor's Office regarding Commission records and the City and County Directory;

D. A draft response, on which the Commissioners proposed revisions, to the Clerk of the Board of Supervisors who had requested Rent Board regarding inquiries received due to excess water usage penalties and possible solutions for handling allocation of these costs in a fair manner.

VI. Director's Report

The interim director reminded Commissioners of the upcoming deadline to submit their Statements of Economic Interest.

VII. Public Comments

An "official of the Apartment House Association" commented on the Board's action on proposed amendments to the Rules and Regulations. Janice Chapralis, an attorney in San Francisco, also commented on recently adopted Rules and Regulations.

VIII. Old Business

A. President Astle distributed a draft job description of the Executive Director. The Commissioners also discussed other concerns
1655A

regarding the Rent Board office and structure. They requested staff to check into office space, storage space, a title change for the job classification of "Citizen Complaint Officers," as well as whether any such staff persons could be designated as investigators. They also agreed to invite staff to provide comments to them at a Board meeting and to schedule the matter on a specific agenda.

IX. Calendar Items

March 28, 1989 - 3 appeal considerations

Appeal hearing:

6:00 900 Chestnut Street H002-47T through H002-60R
(postponed from 3/7)

Old Business:

- A. Discussion of new Executive Director; and
- B. Proposed Rules and Regulations Changes.

April 4, 1989 - 4 appeal considerations

New Business: Staff Comments on Rent Board structure

Appeal Hearing:

6:00 60 Leavenworth Street J002-23R through J002-28R

April 11, 1989 - 3 appeal considerations

Appeal Hearing:

6:00 437 Tehama Street J002-29R (accepted 3/21)

VIII. Old Business (continued)

B. Proposed amendments to Rules and Regulations

The Board listed remaining proposed amendments to Section 6.11 (Comparables) and Part 7, as well as future proposals.

Commissioner Carrico made a motion, seconded by Commissioner How, to reconsider the effective date of amendments the previous week to Rules and Regulations Section 7.12(d) concerning a 10% annual limit on capital improvement passthroughs. The Board agreed to table the motion until the legality of such a motion could be determined, based on advice of the City Attorney's office.

Commissioner Carrico distributed revised language for Rules and Regulations Section 7.15(c) concerning tenant objections to common area capital improvements. The Board approved the following motion:

MSC: To approve amendments to subsection (b) of Section 7.15 as proposed, and to subsection (c) with revisions as proposed and further revised, concerning tenant objections to certification of capital improvements.
(Marshall/How: 5-0)

Commissioner Marshall distributed revised language for Rules and Regulations Section 6.11 concerning comparables, which would be discussed at the next meeting.

X. Adjournment

President Astle adjourned the meeting at 8:15 p.m.



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, March 28,
1989 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

President Astle called the meeting to order at 5:35 p.m.

II. Roll Call

Commissioners Present: Astle; Hammill; How; Lipski;
Marshall; McGoldrick; Soulis;
Stephenson.
Commissioners not Present: Villa.
Staff Present: O'Hearn; Wicks.

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Commissioner Carrico appeared on the record at 5:59 p.m.

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III. Approval of the Minutes

MSC: To approve the Minutes of March 21, 1989 as written.
(Marshall/How: 5-0)

IV. Consideration of Appeals

A. 2022 Taraval St.. J001-97A

The landlord appealed the hearing officer's decision granting a 15% rent decrease to correspond with the loss of a section of the kitchen ceiling; other petitioned-for items were denied. On appeal the landlord insisted that the tenant was responsible for the damage; that the amount of the reduction was excessive; and that the beginning date on which the reduction was granted did not conform to the date on which the tenant gave notice of the problem.

MSC: To deny the appeal and uphold the hearing officer.
(McGoldrick/Marshall: 3-2; How and Soulis dissenting.)

B. 1390 Market St. (Fox Plaza) J001-31R through J002-74R

Forty-four tenants appealed the hearing officer's determination which certified as capital improvements "direct costs" involved in removal of asbestos from ceilings, while denying certification for "indirect costs." Forty-three tenants argued on appeal that: asbestos removal is not a capital improvement, as it adds no value to the property and merely gives the tenants the defect-free premises they originally bargained for; the asbestos was originally installed by a company under the ownership and control of the owner of the property; and the desire to remove the asbestos was not for the tenants' safety but to facilitate refinancing. One individual tenant appealed on the basis of financial hardship.

MSC: To accept both appeals at the Board level for a hearing on tenant hardship for #2723 and on policy issues for the other tenants. (Marshall/McGoldrick: 4-1; Soulis dissenting)

C. 140 Page Street #5 J002-75R

One tenant appealed the hearing officer's certification of capital improvements made by the previous owner. The appellant stated that he is ill and on a fixed income, and the increase imposes a financial hardship on him.

MSC: To accept the case for a Board hearing on hardship. (McGoldrick/Marshall: 5-0)

V. Communications

The Board received the following communications:

A. The revised letter responding to the Land Use Committee's request for information on water penalties (the Committee meeting concerning water penalties was again continued);

B. The Annual Report on Eviction Notices filed with the Rent Board, which was sent to the Mayor and the Board of Supervisors;

C. A revised letter to the Clerk of the Board of Supervisors concerning Supervisor Kennedy's request for information on rental statistics;

D. The Rent Board organizational chart, Staff roster, and Hearing Officer roster;

E. The appeal decision for 1369 Hyde Street, which was signed; President Astle received a press release from KCBS concerning capital improvement certification for smoke detectors. Staff will prepare a draft letter for Board review and signature.

VI. Remarks from the Public

The following persons addressed the Commissioners:

A. Randy Shaw from the Tenderloin Housing Clinic encouraged the Board to consider Rules and Regulations changes concerning substantial rehabilitation, interest on capital improvements, and amortization periods for capital improvement certification;

B. Dave Brigode from the Housing and Tenants' Council commended the Board for their work in general and Rules changes in particular. He further objected to the pressure placed on the Commissioners by members of the public during the on-going Rules revisions;

C. Michael Harney of the San Francisco Tenants' Union expressed agreement with the comments of the first two speakers;

D. Christine Chan, representing the Community Tenants' Association, thanked the Board for recent Rules changes that are helpful to their membership located in Chinatown and North Beach. She offered to help the Commissioners distribute information on Rules changes through the Chinese newspapers;

E. A landlord expressed concerns about the difficulty owners will experience in meeting expenses because of the changes in capital improvement regulations;

F. Mitchell Omerberg from the Affordable Housing Alliance objected to the characterization of capital improvement changes as "rushed" and reminded those present that Mayor Agnos has traditionally favored limiting the amount which could be charged tenants for such improvements;

G. Jonathan Runcle, President of the Board of Directors of the North of Market Planning Commission, expressed concern about the position of low-income tenants among his members and praised the Board for Rules changes which help preserve affordable housing.

VII. Appeal Hearing

900 Chestnut St.

H002-47T through H002-60R
(Postponed from 3/7/89)

This case concerns capital improvement certification, the subject of an earlier Board decision vacated pursuant to court-ordered remand. The matter was scheduled to be heard at 6:00 p.m. and began on the record at 6:32 p.m. Of the original 13 appealing tenants, tenant Danielson continues her appeal primarily on the basis of hardship, representing herself; two of the tenants represented by counsel have settled, and eight remaining tenants, represented by counsel, continue with their appeals. Before listening to argument, the Board voted as follows:

MSC: To excuse Commissioner Stephenson from hearing the case. (Mashall/Carrico: 5-0)

Both counsel presented the history of the case and procedural arguments. The parties and the Board agreed that there was a threshold issue to resolve before proceeding on the merits: Whether or not Rules and Regulations Section 7.12(d) [effective March 15, 1989] applies to this case--limiting any capital improvement increase in a twelve-month period to 10% of a tenant's base rent, with an additional 10% increase allowed in subsequent years. If the new subsection does not apply, the tenants may possibly renew the hardship issues raised in their original appeals. 1666A

The Board and the attorneys agreed to a continuance for submission of briefs on the applicability of Rule 7.12(d). Simultaneous briefs will be provided to the Board and opposing counsel and the non-represented party on April 11, 1989; responses must be submitted by April 18, 1989; a hearing for short oral arguments on the issue will be scheduled for April 25, 1989; and a hearing on the merits will be set for May 9, 1989. The opening hearing therefore concluded at 7:57 p.m.

VII. Director's Report

The interim Director informed the Board of the following:

- A. That she will be on vacation from April 4 through April 11;
- B. Progress on the possibility of relocating the office; other staff members will report later on title changes for the Citizen Complaint Officers and renting of storage space for office files;
- D. Inquiries to the Civil Service Commission to determine the feasibility of having full-time hearing officers; and
- E. The interim Director will attend a meeting with the Mayor and a group associated with the Apartment Association.

VIII. Old Business

- A. Recruitment of Executive Director

The Board discussed the recruitment and hiring process for executive director.

- B. Proposed Amendments to Rules and Regulations

The interim Director informed the Commissioners of the City Attorney's advice on the following issues concerning proposed Rules and Regulations changes:

- 1. Changes, including the effective date, to any newly-adopted or amended Rules can only be made with new notice and scheduling of another public hearing. After this discussion, the following motion was made and then withdrawn.

MSW: To schedule a public hearing for the meeting of April 11, 1989, to discuss changing the date that Rules and Regulations Section 7.12(d) becomes effective.
(Carrico/How:)

- 2. Concerning elimination of the requirement for approved permits under Rule 7.10(b), this requirement cannot be eliminated for energy conservation work and should not be eliminated for some other work.

C. The discussion of proposed changes to Rule 6.11, Comparables, was deferred to the April 4, 1989 meeting.

IX. Calendar Items

April 4, 1989 - 4 appeal considerations
Staff comments concerning the Rent Board

Appeal Hearing:

6:00 60 Leavenworth J002-23R thru J002-28R (accpt. 3/14/89)

Old Business:

Discussion of new Executive Director
Proposed Rules and Regulations Changes

April 11, 1989 - 3 appeal considerations

Appeal Hearing:

6:00 437 Tehama St. J002-29R (accepted 3/21/89)

6:30 140 Page St. #5 J002-75R (accepted 3/28/89)

Old Business:

Discussion of new Executive Director
Proposed Rules and Regulations Changes

April 18, 1989 - 5 appeal considerations

Appeal Hearing:

6:00 1390 Market (Fox Plaza) J001-31R through J002-74R
(accepted 3/28/89)

Old Business:

Discussion of new Executive Director
Proposed Rules and Regulations Changes

X. Adjournment

President Astle adjourned the meeting at 8:54 p.m.



NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
& ARBITRATION BOARD, Tuesday, 5:30 p.m.

April 4, 1989

State Building, 350 McAllister St. #1158

AGENDA

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MAR 31 1989

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- I. Call to Order
- II. Roll Call
- III. Rent Board Staff and Hearing Officer Comments
- IV. Executive Session [Govt. Code Section 54956.9(a)]
Chestnut Place v. Rent Board, Superior Court No. 895614
- V. Approval of the Minutes
- VI. Consideration of Appeals
 - A. 620 Jones St. #908 J002-76R
 - B. 406-414 Chestnut St. and J001-98A
 - 2009 Stockton St. J002-77R
 - C. 36 Dorland St. #1 J001-99A
 - D. 938 Potrero St.
- VII. Communications
- VIII. Director's Report
- IX. Remarks from the Public
- X. Consideration of Allegations of Wrongful Evictions
- XI. Old Business
 - A. Recruitment of Executive Director
 - B. Proposed Amendments to Rules and Regulations
- XII. New Business
- XIII. Appeal Hearing
 - 6:00 60 Leavenworth St. J002-23 through J002-28R
(accepted 3/14)
- XIV. Calendar Items
- XV. Adjournment

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, April 4, 1989
at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

Commissioner Marshall called the meeting to order at 5:41 p.m.

II. Roll Call

Commissioners Present: How; Lipski; Marshall; Soulis;
Stephenson.
Commissioners not Present: Carrico; Hammill; Villa.
Staff Present: Wolf.

DOCUMENTS DEPT

Commissioner McGoldrick appeared on the record at 5:42 p.m.;
Commissioner Astle appeared at 7:05 p.m.

APR 10 1989

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III. Rent Board Staff Comments

Three members of the Rent Board staff appeared to present proposals and discuss possibilities for restructuring the office with the Commissioners.

IV. Executive Session

The Board went into closed session pursuant to Government Code Section 54956.9(a) to discuss pending litigation in the case of Chestnut Place v. Rent Board, Superior Court No. 895614, with the Deputy City Attorney. The Board returned to regular session at 6:44 p.m.

V. Consideration of Appeals

A. 620 Jones St. #908

J002-76R

The tenant's petition alleging the landlord's failure to repair and decreased housing services was denied by the hearing officer. Many of the issues raised by the tenant were found to be res judicata, having been raised in three previous petitions filed with this Board. On appeal, the tenant maintains that she was not given ample opportunity to present her case.

MSC: To deny the appeal. (How/Soulis: 5-0)

B. 406-414 Chestnut St. & 2009 Stockton St. J001-98A

The landlords' petition for an increase based on increased operating expenses was denied, as the landlords received 7% increases due to their purchase of the property last year. On appeal, the landlords

maintain that since their adjustable rate mortgage went up and they had to pay the second installment of their new property taxes, they should be entitled to an additional increase.

MSC: To deny the appeal. (McGoldrick/Marshall: 5-0)

C. 36 Dorland St. #1 J002-77R

During renovation work, painters removed ceilings without permission of the owners, which released asbestos fibers into the environment. The tenants petitioned for rent reduction due to decreased housing services, the lack of "clean, safe, breathable air." The petition was denied as the tenants have moved from the unit, and the hearing officer found no authority therefore to grant a retroactive decrease in base rent. Additionally, the hearing officer found that no local laws had been violated and the landlord had responded in a reasonable manner. On appeal, the tenants maintain that the hearing officer failed to correctly interpret applicable law.

MSC: To accept the appeal and schedule a hearing before the Board. (Soulis/Lipski: 5-0)

D. 938 Potrero Avenue J001-99A

The landlord appeals the hearing officer's decision granting a rent reduction due to the removal of a crawl space previously used for storage. The landlord claims that use of the space was not provided for in the rental agreement; and that use of the area for storage is illegal and unsafe.

MSF: To deny the appeal. (McGoldrick/Marshall: 2-3; How, Lipski, Soulis dissenting)

MSC: To remand this case for a new hearing to ascertain whether there had ever been an agreement regarding rental of the storage space and whether the landlord had knowledge of the tenant's use of the space. (Lipski/How: 5-0)

VI. Appeal Hearing

60 Leavenworth Street #2, 3, 27, 31, 34, 35 and 43
J002-23R through J002-28R

The appeal hearing commenced at 7:16 p.m. Five tenants appeared accompanied by their attorney; the landlord appeared with a witness, the resident manager of the property. Commissioner Stephenson disclosed that, although old St. Mary's Housing Committee had been involved in this case, it was at a time prior to her employment with the organization.

The tenants in six units had appealed the hearing officer's decision certifying capital improvement increases due to substantial renovation of the building. The tenants maintained that the preponderance of the work was done in order to convert the building to transient use, and not to enhance the existing residential tenancies. The tenants had objected to the work prior to its being done.

Following testimony and arguments by the parties, the hearing closed at 9:05 p.m. and the Board passed the following motion:

MSC: To overturn the hearing officer's decision and certify the following improvements only: hall and stair carpet; exterior waterblast and painting; new roof; concrete/masonry work; elevator work; new doors; plumbing; electrical work; iron security gates; and 1/2 of the new wall/floor construction. None of the costs of the work done to the interior of the units shall be passed through as the tenants objected. (How/Marshall: 5-0)

VII. Remarks from the Public

Alfred Goodwin commented on the lack of public discussion regarding the Board's decision pertaining to the appeal hearing; and expressed his concern that the staff capital improvement specialist will feel obligated to dismiss petitions that are only slightly incomplete, although this was not the Board's intention.

VIII. Calendar Items

April 11, 1989

3 appeal considerations

Appeal Hearings:

6:00 437 Tehama Street J002-29R (accepted 3/21/89)

6:30 140 Page Street #5 J002-75R (accepted 3/28/89)

Old Business:

Discussion of new Executive Director

Proposed Rules and Regulations Changes

April 18, 1989

5 appeal considerations

1 eviction reconsideration

Appeal Hearing

6:00 1390 Market (Fox Plaza) J001-31R through J002-74R

Old Business (accepted 3/28/89)

Discussion of new Executive Director

Proposed Rules and Regulations Changes

IX. Adjournment

Due to the lateness of the hour, the Board continued the rest of the Agenda to next week's meeting and President Astle adjourned the meeting at 9:15 p.m.

1674A

NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
& ARBITRATION BOARD, Tuesday, 5:30 p.m.

April 11, 1989

State Building, 350 McAllister St. #1158

AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals

- A. 807 Ashbury St.
- B. 866 Post St. #2, 3, 4, 6,
10, 11 and 12
- C. 216 Eddy St. #201

J002-01A

J002-78R through J002-84R
J002-02A

- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions
- IX. Old Business

- A. Recruitment of Executive Director
- B. Proposed Rules and Regulations Changes

- X. New Business
- XI. Appeal Hearings

- 6:00 437 Tehama St.
- 6:30 140 Page St. #5

J002-29R (accepted 3/21/89)
J002-75R (accepted 3/28/89)

- XII. Calendar Items
- XIII. Adjournment

1673A

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, April 11, 1989 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

President Astle called the meeting to order at 5:40 p.m.

II. Roll Call

Commissioners Present: Astle, How, Lipski, Marshall,
McGoldrick, Stephenson, Villa.
Commissioners not Present: Hammill, Soulis.
Staff Present: Wicks, Wolf.

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Commissioner Carrico appeared on the record at 5:43 p.m.

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III. Approval of the Minutes

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MSC: To approve the Minutes of April 4, 1989, with the following addition: III. Rent Board Staff Comments

The staff members discussed a variety of issues, emphasizing the need for a different workspace. It was pointed out that the current office presents earthquake and asbestos hazards; there is no privacy for either the public or staff; there is insufficient space for the waiting public, large hearings, or conferences and interviews; and the filing needs already exceed available space. The Commissioners expressed their support and assured the staff that they would work to obtain another office space. (Marshall/How: 4-0)

MSC: To approve the Minutes of March 28, 1989, as written. (Marshall/How: 5-0)

IV. Consideration of Appeals

A. 807 Ashbury St. J002-01A

The conservator for a landlord appealed the Hearing Officer's ruling allowing certain capital improvements and sequential comparables and banking. The elderly owner had not ever raised the rents for tenants residing in the property since 1961 (\$60), 1974 (\$100), 1971 (\$100), 1971 (\$100), and 1979 (\$110). Several tenants moved out and later returned and others changed apartments, all without any increase in rent. On appeal the agent for the landlord argued that comparables and banking can be imposed simultaneously; that for the two tenants who changed units, banking should go back to the date of initial occupancy, not the later date of occupancy of the new unit; and that the owner is in a position of financial hardship, with the building running at a loss.

MSC: To accept the appeal for a hearing before the Board on landlord hardship and comparables. (How/Astle: 5-0)

B. 866 Post St. #2, 3, 4,
6, 10, 11, 12 J002-78R through J002-84R

Seven tenants filed appeals regarding a Hearing Officer's determination that granted certain capital improvements while disallowing others. Among their issues on appeal, the tenants argued that nearly one-half of the allowed improvements related to conversion of the building's heating system, which conversion had been the subject of an earlier successful tenants' petition for reduction in services. In rebuttal the landlord noted that the service decrease was only for the number of heating units in each apartment, and that the new heating system meets all City code requirements.

MSC: To uphold the Hearing Officer and deny the appeal;
Staff will review the case to see if a technical correction is necessary. (Carrico/How: 5-0)

C. 216 Eddy St. #201 J002-02A

The landlord appealed the ruling of the Hearing Officer that the subject property was under the jurisdiction of the Ordinance. On appeal the landlord argued--as he had at the hearing--that the property was exempt since the landlord had entered into an agreement through the North of Market Planning Coalition. Information to support this position had been requested by the Hearing Officer and was presented approximately two weeks after the record closed.

MSC: To remand the case to a Hearing Officer to determine the jurisdictional issue. (Carrico/Astle: 5-0)

V. Communications

The Board received the following communications:

A. A request for postponement of the consideration at 807 Ashbury Street, which was denied;

B. A copy of attorney Robert DeVries's letter to columnist Bill Mandel, concerning a recent newspaper article;

C. A memo from the Acting Director concerning recruitment for the Executive Director's position. The Commissioners redrafted the job description document from 1984;

D. An unsigned complaint letter and a letter signed by all staff members countering the issues raised in the unsigned letter. The Commissioners passed the following motion:

MSC: The Board does not accept unsigned letters. However, all Board members are available for private, confidential discussions of personnel matters. (Astle/McGoldrick: 5-0)

E. A memo from the Acting Director to the Mayor and Board of Supervisors with corrections to the annual report on eviction notices filed with the Board;

F. A letter from the City Attorney's Office confirming the Executive Session held April 4, 1989.

VI. Remarks from the Public

A. Milo Nadler on the Board of Old St. Mary's Housing Committee commended the Board for the Rules and Regulations changes and encouraged them to address various capital improvement issues;

B. Michael Harney from the San Francisco Tenants' Union also praised the Board for Rules changes. He further encouraged the Commissioners to consider some sort of registration fee for landlords and reported that many in the tenant community are concerned about the process of selecting a new director.

VII. Consideration of Allegations of Wrongful Evictions

A. Staff Report

The Eviction Unit Supervisor informed the Board that the landlord in the case concerning 162 Duncan Street had withdrawn his eviction action. The landlord's attorney for the case at 2506 Leavenworth responded to the Board's cautionary letter.

VIII. New Business

A. The Board rescheduled the factual arguments on 900 Chestnut (presently scheduled for May 9, 1989) on May 16, 1989.

B. The Commissioners have tentatively scheduled another Public Hearing for May 23, 1989, to further discuss proposed changes to the Rules and Regulations.

C. The Board expressed interest in the Finance Committee's hearing on the Eviction Assistance program. Staff will look into this topic.

IX. Appeal Hearings

A. 437 Tehama St.

J002-29R (accepted 3/21/89)

This case came before the Board pursuant to the Hearing Officer's decision on remand, to consider the actual cost of kitchen renovations and to permit the tenants to raise on remand issues presented on appeal. In the initial appeal the landlord stated that an error had been made in the petition and that the monthly capital improvement request had been understated. The tenants raised the defense that the kitchens had not been completed; cabinets had not been installed as of the remand hearing. The tenants appealing the remand hearing argued that they had not received notice of the first hearing or appeal, that they had received only some of the improvements, and that the increase posed a financial hardship.

At the hearing before the Commissioners, the tenants appeared with a non-attorney representative and interpreter; the landlord represented herself. The tenants argued that they did not receive some of the certified capital improvements and objected that others were unnecessary. They also claimed financial hardship. The husband had been unemployed until very recently, and the wife worked only very little during the past year; however, they paid their rent even when they were unemployed. The landlord was unable to provide information concerning the improvements since they had been made by a previous owner.

MSC: To certify the following improvements for this unit: electrical (\$27.54); doors (\$7.45); painting (\$11.22); tiles (\$2.60); sprinklers (\$5.95); bathroom (\$13.08); kitchen (\$5.87); and windows (\$1.08). To find no tenant hardship. (Carrico/Marshall: 5-0)

B. 140 Page St., #5

J002-75R (accepted 3/28/89)

The tenant had appealed the hearing officer's certification of capital improvements made by the previous owner. The appellant stated that he is ill and on a fixed income; the increases pose a severe financial hardship for him.

The tenant represented himself before the Commissioners, and two landlords represented themselves. The sole issue before the Board was tenant financial hardship. The appellant testified that he is ill and unable to work. His income consists of SSI and SSA and a small sum from the AIDS emergency fund; he has no assets. He testified that he has difficulty paying for basic needs since he pays approximately 80% of his income for rent. The additional \$27.54 for improvements causes an even greater hardship.

MSC: To certify the \$27.54 in capital improvements for this unit but defer imposing the costs for this tenant. Should the tenant's income change such that he is paying only 30% of his income for rent--including the amount for improvements--the matter will be reviewed. (Marshall/How: 5-0)

X. Director's Report

Rent Unit Supervisor Delene Wolf reported on the following:

A. A meeting was held with the Mayor and representatives of the Apartment House Association, attended by the Acting Director;

B. The Rent Board's Budget Analyst informed Staff that if a modest Municiple Licensing Fee is imposed on landlords covered by the Ordinance--to be reimbursed by the tenants--the Board would be able to finance major restructuring and relocation ideas currently being seriously considered by the Commissioners. Further discussions will be held on this matter with a report at the April 18, 1989 meeting.

XI. Old Business

A. The Board reviewed the proposed Rules and Regulations still outstanding that will not need further public hearing, as well as the proposals that must be discussed at another public hearing.

B. After discussion the Commissioners approved language for comparables--Rules and Regulations 6.11--and passed the following motion:

MSC: To approve the revised language for public discussion on May 23, 1989. (How/Astle: 5-0)

XII. Calendar Items

April 18, 1989

5:30-- Budget Analyst's report
5 Appeal Considerations
1 Eviction Reconsideration

Appeal Hearings:

6:00-- 1390 Market (Fox Plaza) J001-31R--J002-74R (accpt. 3/28/89)

Old Business:

A. Rules & Regulations Changes

B. Recruitment of the Executive Director

April 25, 1989

5:30-- Executive Session: 900 Chestnut
3 appeal considerations

Appeal Hearings:

6:00--900 Chestnut (oral arguments) H002-47T through H002-60R

(accpt. 3/28/89)

6:30--36 Dorland

J002-77R

(accpt. 4/4/89)

Old Business:

A. Rules & Regulations Changes

B. Recruitment of the Executive Director

May 2, 1989

7 appeal considerations
1 Eviction Reconsideration

Appeal Hearing:

6:30-- 807 Ashbury St.

J002-01A (accpt. 4/11/89_

Old Business:

A. Rules & Regulations Changes

B. Recruitment of the Executive Director

XIII. Adjournment

President Astle adjourned the meeting at 10:18 p.m.



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, April 18,
1989 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

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I. Call to Order

President Astle called the meeting to order at 5:40 p.m.

II. Roll Call

Commissioners Present: Astle; Carrico; Hammill; How;
Lipski; McGoldrick; Stephenson;
Soulis; Villa.
Staff Present: O'Hearn; Wicks; Wolf.

Commissioner Marshall appeared on the record at 5:50 p.m. President Astle and Commissioner McGoldrick left the meeting at 7:04 and 7:15 p.m., respectively.

III. Budget Analyst Report

As instructed by the Mayor's office, staff prepared a proposed new budget allocation which was distributed to the Commissioners. One part of the proposal is based on the contingency of possible funds available outside the City's general fund, and another part is contingent on the enactment of vacancy control legislation. The Mayor's budget analyst was present to summarize and answer questions on the new proposals.

Following discussion, including the possibility of having counseling staff perform investigative duties outside the office to investigate wrongful evictions, the Commissioners passed the following motion:

MSC: To approve the budget proposal of approximately \$400,000 to cover existing workload and functions, with an increase in outreach funds to \$10,000 and in the director's salary consistent with other departments in the City, and in priority order as follows: (1) new office space; (2) outreach; (3) funds for other materials and supplies; (4) a senior accountant; and (5) an increase in hearing officer pay or full-time hearing officers. (Carrico/How: 5-0)

The following motion was not voted on due to the approval of the subsequent motion by President Astle to continue consideration of that matter for two weeks:

MS: To not approve the budget proposal contingent on the enactment of vacancy control. (Marshall/Carrico)

IV. Approval of the Minutes

MSC: To approve the Minutes of April 11, 1989.
(McGoldrick/How: 4-0; Carrico abstaining because he
had not received the minutes in advance of the meeting.)

V. Consideration of Appeals

A. Parkmerced Apartments J002-03A

The landlord appeals the hearing officer's decision as to 34 tenants who are each granted a refund ranging from \$1.68 to \$1,073.64 based on the landlord's incorrect calculation of the PG&E passthroughs since 1982. The landlord does not appeal the decision as to the remaining 7 tenants who did not receive a refund under the same calculation method under the Rules and Regulations which requires the landlord to compare calendar year periods.

The landlord makes the following arguments: (1) the calendar year rule contravenes the Rent Ordinance; (2) the prior Board decision on this issue concerning this property had been stayed due to pending litigation; (3) the calculations should have included a setoff when the landlord could have charged a greater PG&E passthrough (although a greater amount had not been noticed to the tenants); and (4) the hearing officer should have calculated additional amounts using certain figures provided by the landlord which did not show a monthly breakdown of allowable PG&E costs for each building.

MSC: To deny the appeal. (Marshall/Hammill: 3-2; Carrico
and How dissenting.)

B. 10 Tenth Ave. #4 J002-85R

The tenant appeals the denial of his petition seeking a rent reduction based on decrease housing services due to the lack of proper heating in compliance with the Housing Code. The hearing officer determined that the tenant did not establish either the substantiality of the lack of heating or the appropriateness of a rent reduction. The hearing officer also submitted a written statement in response to the appeal.

MSC: To deny the appeal. (Marshall/Hammill: 5-0)

C. 1835 Vallejo St. J002-86R through J002-94R
units 108, 207, 303, 306, 307, 405, 406, 603 & 605

Nine tenants appeal the capital improvement passthrough of \$19.64 granted to each of 14 tenants in the building. The tenants argue that the work was made necessary by the landlord's deferred maintenance. They also claim that the landlord wrongly imposed increases on their total rent including prior PG&E passthroughs. A late written comment on the appeal was received from one of the tenant-appellants.

MSC: To deny the appeal without prejudice to the tenants'
filing separate petitions concerning unlawful rent
increases. (Carrico/How: 5-0)

D. 881 Ashbury St. #2

J002-04A

The landlords appeal the hearing officer's decision as it affects the one unit to which an operating and maintenance expense increase does not apply due to commencement of the tenancy during the second year of compared expenses. The increase also would be denied due to the higher amount of base rent since the 4% increase for that unit covers the increased operating expenses whereas it does not do so for the other units subject to this petition.

The landlords compared expenses for calendar years 1986 and 1987 showing a \$5,000 increase in taxes even though they have owned the property since 1985. On appeal the landlords dispute that the tenancy of unit #2 commenced in 1987.

MSC: To deny the appeal and have staff explain the applicable operating and maintenance increase provisions to the landlords. (Marshall/Carrico: 5-0)

Following discussion of other items on their agenda and before commencing the scheduled appeal hearing, the Commissioners passed the following additional motions concerning this appeal.

MSC: To reconsider their motion denying the appeal.
(Marshall/Carrico: 5-0)

MSC: To remand the case for further hearing to determine both the commencement date of tenancy and the reason for the property tax increase. (Marshall/Carrico: 5-0)

VI. Consideration of Allegations of Wrongful Evictions

A. Eviction Reconsideration

169-A Ellsworth St.

J002-94R

A hearing originally was scheduled for February 2nd, but was cancelled by Rent Board staff after being advised on January 23rd that the issues had been resolved or corrected. A confirming note was received that day requesting that the tenant be phoned for verification and listing the tenant's phone number.

After the tenant and his interpreter appeared for the hearing on February 2nd and stated that the matter had not been resolved, the case was rescheduled and notice was mailed on February 16th for another hearing on March 1st. At that hearing, the landlord appeared but the tenant did not. The hearing officer therefore dismissed the petition alleging a substantial decrease in housing services and took no action on the consolidated report of alleged wrongful eviction.

After the dismissal was mailed on March 7th, the tenant's representative telephoned the eviction unit supervisor to state that the tenant did not receive notice of the second hearing. After being then advised to write an explanation and file an appeal, he wrote a letter dated March 9th and finally filed an appeal on March 29th.

Staff inadvertently noticed the appeal as a request for reconsideration of an eviction recommendation instead of noticing it for appeal consideration. Because of the repeated confusion in this case, staff recommends that the late appeal be accepted in order to remand the case for another hearing.

MSC: To remand the case for a hearing (on the eviction report). (Marshall/Carrico: 5-0)

B. Report from Staff

1. 330 Montgomery Blvd. #3 H001-93E

The tenant's attorney wrote a letter requesting assistance in enforcing the hearing officer's recommendation and the Rent Board President's cautionary letter to the landlord sent in 1986. The hearing officer's evaluation of the eviction evidence showed that the amount of increased rent stated in the April 1986 rental agreement does not conform with the Rent Ordinance. The Eviction Unit Supervisor will report further on the matter at the next Board meeting.

2. 460 Lyon Street I003-89E through I003-95E

The Eviction Unit Supervisor reported on the status of these cases which were referred to the District Attorney and the City Attorney in May 1989.

VII. Communications

The Commissioners received the following communications:

A. A request from the tenant's attorney to postpone the appeal hearing on 36 Dorland St. [J002-77R], scheduled next week, to May 16th, which was granted by the Board.

B. A request for postponement of the appeal consideration on 401 - 45th Ave. [J002-05A] originally scheduled for this meeting, but not included on the agenda. The case therefore is continued to the next meeting.

C. A letter and formal stipulation concerning the settlement agreement between all parties, except for one tenant, concerning 900 Chestnut St. [H002-47R, H002-48R, H002-50R through H002-57R].

D. Rent Board statistics on the number of petitions filed, hearings held, and eviction notices received during the months of February and March 1989.

VIII. Appeal Hearing

1390 Market Street

J002-31R through J002-74R

On March 28, 1989 the Board accepted the consolidated tenants' appeals, along with a separate appeal on hardship. The appeal hearing commenced 1680A

at 7:22 p.m. first concerning the policy issues raised by determining that the "direct costs" involved in removal of asbestos from ceilings justifies a capital improvement passthrough. The tenants' attorney primarily argued that such costs should not be considered a capital improvement, as the work adds no value to the property and merely gives the tenants the defect-free premises they originally bargained for.

That portion of the hearing concluded at 8:45 p.m. and the next portion on the hardship to the tenant of unit #2723 then commenced. Following the conclusion of that hearing, the Board continued its consideration of the individual tenant appeal for two weeks in order to allow time for the parties to consider settlement.

As to the remaining issues raised, the Board discussed the application of Rules and Regulations Section 2.18 in order to waive its 10-year amortization rule in this particular case, as suggested by Commissioner Marshall. The Commissioners passed the following motion:

MSC: To affirm the Hearing Officer's Decision, with the understanding that it is specific to this case.
(Carrico/How: 4-1; Marshall dissenting.)

IX. Director's Report

A. The Land Use Committee hearing to consider coordination efforts between departments affected by water use penalties has been rescheduled for April 25th.

B. The Finance Committee public hearing on the Rent Board's proposed budget is scheduled for June 13th at 1:30 p.m.

X. Old Business

A. Recruitment of Executive Director

The Acting Director noted that the Commissioner's revisions to the Civil Service "Class Specification" for Rent Board Executive Director could not affect that document. Instead, the Commissioners were to have reviewed that document in order to assist them in drafting a job announcement to solicit candidates.

The Director showed the Commissioners an example of a job announcement from the Public Utilities Commission seeking applications for General Manager. The Commissioners will each receive a copy of the job announcement in order to draft one for the position of Rent Board Executive Director.

XI. Remarks from the Public

Michael Harney, from the Tenants' Union, commented on the proposed fee source of funding and on a reserve contingency budget in the event vacancy control passes.

X. Old Business (continued)

B. Proposed Rules and Regulations Changes

The Board continued this matter to the next Board meeting.

XII. Calendar Items

April 25, 1989

5:30-- Executive Session: Chestnut Place v. Rent Board
3 appeal considerations

Appeal Hearing:

6:00--900 Chestnut St. #210 H002-49R (continued from 3/28/89)
(oral arguments on limited issue only)

Old Business:

- A. Recruitment of the Executive Director
- B. Rules & Regulations Changes

May 2, 1989

9 appeal considerations

6:30-- Appeal Hearing: 807 Ashbury St. J002-01A (accepted 4/11/89)

Old Business:

- A. 1390 Market St. #2723 J002-31R (heard 4/18/89)
- B. Recruitment of Executive Director
- C. Rules & Regulations Changes

XIII. Adjournment

Vice-president How adjourned the meeting at 10:00 p.m.



NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
& ARBITRATION BOARD, Tuesday, 5:30 p.m.

April 25, 1989

State Building, 350 McAllister St. #1158

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AGENDA

APR 24 1989

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- I. Call to Order
- II. Roll Call
- III. Executive Session [Govt. Code Sections 54956.9(a)]
Chestnut Place v. S.F. Rent Board, Superior Court No. 895614
- IV. Approval of the Minutes
- V. Consideration of Appeals
 - A. 401 - 25th Ave. J002-05A
 - B. 1369 Hyde St. #67 J002-06A
 - C. 1175 York Ave. J002-08A
- VI. Communications
- VII. Director's Report
- VIII. Remarks from the Public
- IX. Consideration of Allegations of Wrongful Evictions
Report from Staff
 - A. 330 Montgomery Blvd. #3 H001-93E
 - B. 66 Fresno St. J001-31E
 - C. 206 Ashton Ave. #2 J002-50E
 - D. 2959-A - 24th St. J002-86E
- X. Old Business
 - A. Recruitment of Executive Director
 - B. Proposed Rules and Regulations Changes
- XI. New Business
- XII. Appeal Hearing
 - 6:00 900 Chestnut St. #210 H002-49R (cont. from 3/28)
[Oral arguments and determination on applicability of former or
current Rules and Regulations Section 7.12(d)]
- XIII. Calendar Items
- XIV. Adjournment

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, April 25,
1989 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

Vice President How called the meeting to order at 5:36 p.m.

II. Roll Call

Commissioners Present: Hammill; How; Stephenson; Villa.
Commissioners not Present: Marshall; McGoldrick; Soulis.
Staff Present: O'Hearn; Wolf.

Commissioners Carrico and Lipski appeared on the record at 5:39 p.m.;
Commissioner Astle appeared at 5:49 p.m.

III. Consideration of Appeals

A. 401 45th Avenue J002-05A (cont. from 4/18/89)

The landlord appeals the hearing officer's decision certifying a capital improvement passthrough, but determining rent overpayments in excess of \$11,000.00. The landlord maintains that (1) the base rent figure contained in the petition is in error, (2) no overpayments exist; and (3) refunding the overpayment would present a hardship. The tenants assert that the figures used by the hearing officer are correct.

MSC: To remand this case for a new hearing to establish the correct base rent and clarify the rent increase history. (Hammill/Stephenson: 3-0)

IV. Executive Session

The Board went into closed session at 5:40 p.m. pursuant to Government Code Section 54956.9(a) to discuss pending litigation in the case of Chestnut Place v. Rent Board, Superior Court No. 895614, with the Deputy City Attorney. The Board returned to regular session at 6:45 p.m. after having made the following motion:

MSC: To adopt a Resolution concerning the case at 900 Chestnut Street.
(Carrico/Stephenson: 5-0)

III. Consideration of Appeals

B. 1369 Hyde St. #67

J002-06A

In the original hearing officer's decision in this case, the tenant received a rent reduction to correspond with decreased services in his unit. On appeal, the landlord alleged that the tenant had refused to provide him access to make the necessary repairs. The case was remanded to the same hearing officer to consider the access issue only, and the original decision was essentially affirmed on remand. In appealing the remand decision, the landlord alleges abuse of discretion by the hearing officer.

MSC: To excuse Commissioner Stephenson from consideration of this appeal. (Hammill/How: 5-0)

MSF: To deny the appeal. (Hammill/Astle: 1-3; Astle, Carrico, How dissenting)

MSC: To accept the appeal and schedule a hearing before the Board. (Carrico/How: 3-1; Hammill dissenting)

C. 1175 York Avenue

J002-08A

The original decision in this matter granted the tenant a rent reduction based on decreased services and reimbursement for rent overpayments. The landlord appealed the decision as to rent overpayments and the Board remanded the case to allow evidence regarding improper rent increases. As the landlord offered no additional evidence on remand, the original decision was affirmed. The landlord appeals the remand decision as well, maintaining that it is the tenant's burden to prove the rent increase history.

It was the consensus of the Board to continue this case for one week so that President Astle can listen to the tape of the hearing.

V. Appeal Hearing

900 Chestnut Street #210

H002-49R

From 7:22 p.m. to 7:39 p.m., the Board heard brief oral arguments on the applicability of former or current Rules and Regulations Section 7.12(d) from tenant-appellant Joan Danielson and Nancy Lenvin, landlord-appellee's attorney. The issue is whether or not the current 10% annual limit on capital improvement increases applies in this case, which was originally heard by the Board on May 12, 1987.

MSC: To excuse Commissioner Stephenson from consideration of this case. (Hammill/How: 5-0)

MSC: That the Rules and Regulations in effect at the time of the original appeal hearing in this case apply; this determination applies to this case only.
(Carrico/How: 4-0) —

VI. Communications

The Commissioners received the following communications:

A. Draft decisions for the cases at 140 Page Street #5 (J002-75R) and 437 Tehama Street (J002-29R) which will be reviewed for next week.

B. A letter to John Walsh of the Civil Service Commission from Acting Director Barbara O'Hearn concerning her appointment at Step 3 of the Salary Standardization Ordinance.

C. A letter from a former hearing officer commending Barbara O'Hearn's appointment as Acting Director of the Rent Board.

D. A letter from a tenant commending staff for their assistance.

E. A letter from a tenant at 1835 Vallejo #406 (J002-85R through J002-94R) regarding the appeal consideration at last week's meeting.

VII. Director's Report

A. The Acting Director reported that the Land Use Committee again continued its hearing to consider agency coordination efforts concerning penalties resulting from water rationing.

B. The Acting Director informed the Commissioners that Parkmerced had filed a lawsuit seeking a temporary Writ of Prohibition against the Board issuing any further decisions on PG&E passthrough cases, and such was agreed pending the Court of Appeal decision in the prior lawsuit.

C. The Acting Director explained that the Executive Director's salary for the next fiscal year could not be modified because it is already within the range of similar salaries within the City and the Salary Standardization Ordinance has already been adopted.

VIII. Remarks from the Public

A. Attorney Nancy Lenvin asked the Board to make the language of new Section 7.12(d) of the Rules and Regulations more clear.

B. Michael Harney of the Tenant's Union remarked that scheduling Executive Sessions at the beginning of the agenda subjects the public to lengthy waits as does the way that appeal hearings are currently scheduled.

IX. Consideration of Allegations of Wrongful Evictions

A. 330 Monterey Blvd. #3 J001-93E
(incorrectly identified in Agenda and in last week's Minutes as Montgomery Blvd.)

This case was heard on the tenant's report of alleged wrongful eviction several years ago. The tenants are now requesting the Board's intervention because the landlord has filed for declaratory relief in order to raise the rent in contravention of the Ordinance.

As the Board's decision in this case did not render Findings of Fact and Conclusions of Law, but rather was a Recommendation as to the propriety of the eviction, there is technically no binding decision of this Board. Therefore, the Board cannot become involved further unless the tenants choose to file a petition regarding the rent increase. The Eviction Unit Supervisor will contact the tenant's attorney and explain the available options.

B. 66 Fresno St.

J001-31E

This case involves an attempt to withdraw the property from the rental market. The hearing officer determined that the landlord had failed to comply with several procedural requirements under the Ordinance and Regulations. Although the tenant and her family have vacated, she continues to pursue the matter.

RECOMMENDATION: To write the landlords and their attorney concerning the insufficiency of the documents submitted thusfar and advise the landlords to refile if they intend to pursue this matter.

MSC: To accept staff's recommendation. (Carrico/How: 5-0)

C. 206 Ashton Ave. #2

J002-50E

A series of improper actions was taken in this case, including defective notices for owner occupancy; oral notice to move because the unit needed painting, instead, extensive work was done and the one-bedroom apartment was converted to two bedrooms; and demolition of the unit while the tenant was still in occupancy. There is a question as to whether the building is now exempt.

RECOMMENDATION: To write the landlord advising her to act properly in the future, pointing out the improprieties in the past actions, and noting the tenant's right to have a roommate under his rental agreement.

MSC: To accept staff's recommendation.
(Carrico/How: 5-0)

D. 2959 24th Street

J002-86E

When the tenants took up occupancy, there was no heating system in their unit. They informed the new owner, who did nothing to remedy the situation. In January 1989 the tenant began withholding rent for habitability. The matter is pending in Court.

RECOMMENDATION: To track the Court matter. If the landlord does not prevail, the case should continue to be monitored to see if further Board action is necessary. The Board may wish to write the landlord about her responsibility to provide heat.

MSC: To accept staff's recommendation. (Carrico/How: 5-0)

X. Old Business

A. Recruitment of Executive Director

The Commissioners worked on a draft job announcement for the position of Executive Director, along with a description of the agency. A final copy will be distributed for their approval next week.

B. Proposed Rules and Regulations Changes

Several Commissioners distributed drafts regarding proposed Rules changes, which were briefly discussed.

XI. Calendar Items

May 2, 1989

10 appeal considerations (1 continued from 4/25)

6:30 Appeal hearing:

807 Ashbury St. J002-01A (accepted 4/11)

Old Business:

A. 1390 Market St. #2723 J002-31R (heard 4/18)

B. Recruitment of Executive Director

C. Proposed contingent budget (cont. from 4/18)

D. Rules and Regulations Changes

May 9, 1989

5 appeal considerations

1 eviction reconsideration

Appeal hearing:

6:00 1369 Hyde St. #67 J002-06A (accepted 4/25)

Old Business

A. Recruitment of Executive Director

B. Rules and Regulations Changes

XII. Adjournment

President Astle adjourned the meeting at 9:06 p.m.



NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD, Tuesday, 5:30 p.m. May 2, 1989

State Building, 350 McAllister St. #1158

AGENDA

DOCUMENTS DEPT.

MAY 2 1989

SAN FRANCISCO PUBLIC LIBRARY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals
 - A. 1175 York Ave. J002-08A (cont. from 4/25)
 - B. 261 25th Ave. J002-09A
 - C. 656-658 Valencia J002-10A
 - D. 6214 3rd St. J002-07A
 - E. 106 Vicksburg St. J003-14 & J003-15R
 - F. 1450 36th Ave. J002-12R
 - G. 2131 Taylor St. #4 J003-13R
 - H. 1450 36th Ave. J002-11A
 - I. 347 Eddy St. J002-98R
 - J. 169-A Ellsworth St. J002-95R
- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions
- IX. Old Business
 - A. 1390 Market #2723 J002-31R (heard 4/18)
 - B. Recruitment of Executive Director
 - C. Proposed Contingent Budget (cont. from 4/18)
 - D. Proposed Rules and Regulations Changes
- X. New Business
- XI. Appeal Hearing
 - 6:00 807 Ashbury J002-01A (accepted 4/11/89)
- XII. Calendar Items
- XIII. Adjournment



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, May 2, 1989
at 5:30 p.m. at the State Building, 350 McAllister St. #1158

DOCUMENTS DEPT

I. Call to Order

MAY 8 1989

Vice-president How called the meeting to order at 5:42 p.m. SAN FRANCISCO
PUBLIC LIBRARY

II. Roll Call

Commissioners Present: Hammill; How; Lipski; McGoldrick;
Soulis; Stephenson.
Commissioners not Present: Astle; Marshall; Villa.
Staff Present: Wicks.

Commissioner Carrico appeared on the record from 5:45 p.m. until 6:50 p.m. Acting Director O'Hearn arrived at 7:15 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of April 25, 1989, as written.
(Lipski/Stephenson: 5-0)

IV. Consideration of Appeals

A. 1175 York St. J002-08A (cont. from 4/25/89)

It was the consensus of the Board to continue this matter for another week to allow the Commissioners to listen to the tape of the hearing.

B. 261-25th Ave. J002-09A

The landlord appealed the hearing officer's ruling that resulted in a 15% rent reduction for verified lack of heat, mold and mildew, inoperable windows, and vegetation growing through the walls. The landlord had requested a postponement for work reasons and did not appear. On appeal he objected that he had not been given an opportunity to be heard, the rent reduction was excessive, and the tenant had refused access for repairs.

MSC: To excuse Commissioner McGoldrick from this consideration. (Lipski/Hammill: 5-0)

MSW: To uphold the hearing officer and deny the appeal.
(Stephenson/Hammill)

MSC: To remand the case to the same hearing officer for another hearing. (Hammill/Lipski: 4-0)

C. 656-658 Valencia St.

J002-10A

The landlords filed an appeal of the hearing officer's determination that a three-unit building was not exempt from the Ordinance because the owners could not establish occupancy for the requisite period of time. The tenants testified that they had not heard the owners or their small children until recently, there was never anyone in the unit when they went to pay rent, and the landlords' bills for utilities and phone suggested minimum usage. On appeal the landlord disputed this interpretation.

MSC: To remand the case to the same hearing officer for further investigation of the owner-occupancy issue and the date on which full-time occupancy may have occurred. (Carrico/McGoldrick: 4-1; Stephenson dissenting)

D. 6214 - 3rd Ave.

J002-07A

The landlord-representative of a church that owns the subject property, comprised of a church and residential unit, appealed the hearing officer's decision that granted a rent reduction for lack of heat for nearly six months. The tenant had repeatedly asked for repairs and was told the church did not wish to make repairs at that time. On appeal the landlord referred to the water bill.

MSC: To deny the appeal and direct staff to determine if a technical correction needs to be made concerning allocation of the water bill. (Stephenson/McGoldrick: 5-0)

E. 106 Vicksburg St.

J003-14R & J003-15R

Two tenants appealed the ruling of the hearing officer that found the subject property exempt because of owner-occupancy. An initial attempt to raise the rent from \$252.20 to \$875.00 was rescinded when the Rent Board informed the owner that the property was not exempt; the resident owner had only a 25% interest at that time. After transfer of another 25% interest to this owner and her occupancy of six months, the notice was again given, resulting in the hearing at issue. The long-term tenants dispute that the owner established her full 50% interest, point out that the deed does not clearly show this percentage, and challenge the 300% increase to elderly tenants.

MSC: To uphold the hearing officer and deny the appeal. (Carrico/Stephenson: 5-0)

F. 1450- 36th Ave.

J002-11A & J003-12R

Both the landlord and tenant appealed the hearing officer's determination that approved capital improvements made in 1983, 1984, and 1987, for a total of \$86.04. Past incorrect rent increases in 1983 and 1984 resulted in overpayments of approximately \$7,000. On appeal the landlord protested that she had been unaware of rent limitations

when the incorrect increases were given and that only the excess should be refunded. The elderly tenant appealed on the basis of financial hardship.

MSC: To accept the landlord's appeal for hearing before the Board; to accept the tenant's appeal on the issue of financial hardship.
(Carrico/How: 4-1; McGoldrick dissenting)

G. 2131 Taylor St.

J003-13R

One of two adjacent buildings was the subject of a capital improvement certification petition, resulting in increases between \$40.00 and \$50.00 per month. One of the tenants appealed alleging that some of the work was done to the second building, and some benefited both buildings.

MSC: To remand the case to the same hearing officer to address the issues raised on appeal.
(McGoldrick/Carrico: 5-0)

H. 347 Eddy St.

J002-98R, J002-99R,
J003-01R through J003-11R

Thirteen tenants appealed the hearing officer's certification of capital improvement increases for 25 of the building's 40 units. The major portion of the work, performed by the prior owner, was for elevator modernization, following a citation by a state inspector. The allowable increase was \$17.48 per month. In support of a late filing of the appeal, the tenants stated that neither of the English-speaking tenant representatives received the decision and the tenants themselves do not read or understand English. In appealing the decision, the tenants argued that the elevator work was a repair, not an improvement. The issue of tenant financial hardship noted in the decision was not raised on appeal.

MSC: To excuse Commissioner Stephenson from this consideration. (Carrico/McGoldrick: 5-0)

MSC: To uphold the hearing officer and deny the appeal.
(Carrico/How: 4-0)

I. 169-A Ellsworth St.

J002-95R

This case, although filed as an appeal, was incorrectly scheduled as a Request for Reconsideration of a recommendation on an eviction. Although the Board previously ruled on the eviction portion of the case, the tenant petition was not considered because of the scheduling clerical error.'

MSC: To remand the case to the hearing officer for a new hearing on the tenant petition, to be consolidated with the hearing on the Report of Alleged Wrongful Eviction. (Stephenson/McGoldrick: 5-0)

V. Appeal Hearing

807 Ashbury

J002-01A (accepted 4/11/89)

The conservator for the landlord appealed the hearing officer's decision which allowed sequential comparables and banking, in addition to a capital improvement passthrough, for a six-unit property. The elderly owner had not ever raised the rents for tenants residing in the property since 1961 (\$60.00), 1971 (\$100.00), 1971 (\$100.00), 1974 (\$100.00) and 1979 (\$110.00). On appeal the agent for the landlord argued that comparables and banking should be imposed simultaneously. He further stressed the owner's financial hardship since the building operates at a loss. The Board voted to accept the appeal for a hearing on the issues of comparables and landlord hardship.

At the hearing before the Commissioners, the landlord was represented by the conservator and two attorneys from the firm handling the owner's legal affairs; a witness appeared as well. Four tenants appeared with their attorney, who also represented an absent tenant.

The owner's attorney argued that the 92-year old landlord is in a rest home and is unable to handle her affairs. He insisted that for some years while she was still living in the building, the owner was not competent to properly deal with the financial aspects of maintaining the property, including her failure to raise the rent.

The owner's representatives further argued that the landlord was entitled to a fair return on the current value of the property, and that the owner was not required to take funds from other sources to operate the subject building. Through use of a witness, the landlord attempted to establish comparable rents of \$525-\$590 for the one-bedroom units and \$660.00 for the two-bedroom apartments.

In rebuttal, the tenants testified that they were the surrogate extended family for the landlord. They helped with her shopping, cooking, cleaning, upkeep of the building, and assisted in taking care of her medical needs, with the result that she was able to remain in the property longer than if they had not been involved. They testified that they had offered to pay more rent, but the landlord refused because the tenants had been so helpful to her.

The tenants argued that the owner had no financial hardship, as the court papers relating to the conservatorship showed substantial assets. They further insisted that the landlord's representatives had not proved comparable rents. They maintained that the only unit discussed by the landlord's representatives and witness was the sixth apartment, occupied for the past year by the other attorney at the hearing, who is the court-appointed manager on the premises. The tenants testified that only this unit has been rehabilitated, and that it is not an accurate representative of the building for purposes of comparables comparison.

After accepting the testimony and evidence, the Commissioners passed the following motion:

MSC: To take the matter under submission for one week.
(Lipski/Soulis: 5-0)

VI. Old Business

A. Proposed Contingent Budget (cont. from 4/18/89)

The Executive Director reviewed the budget proposal contingent on the enactment of vacancy control legislation and noted revisions concerning the estimate for the City Attorney Work order. The Mayor's budget analyst answered questions from the Commissioners. Following discussion the Board passed the following motion:

MSC: Without endorsing any legislation concerning vacancy control, to approve the budget proposal of approximately \$122,000 plus a City Attorney work order of \$50,000 contingent on the enactment of vacancy control.
(Lipski/McGoldrick: 3-2; Soulis and How dissenting)

VII. Communications

The Commissioners reviewed draft decisions for the cases at 140 Page Street #5 (J002-75R) and 437 Tehama Street (J002-29R) both heard on April 11th, which had been distributed at the previous meeting. Both were approved with corrections.

They also received a draft decision for the case at 60 Leavenworth Street heard on April 4th (J002-23R through J002-28R) which will be reviewed for next week.

VI. Old Business (cont.)

B. 1390 Market #2723 J002-31R (heard 4/18)

The Board received a letter to the tenant with his signature and agreement to accept the landlord's settlement of his hardship appeal.

MSC: To accept the parties' agreement and to provide that in the event of a dispute, the parties also agree that the Board or its designated hearing officer will arbitrate the matter. (McGoldrick/Stephenson: 5-0)

VII. Communications (cont.)

The Commissioners received the following communications:

A. A request from the tenant to postpone the appeal hearing scheduled on May 9th concerning 1369 Hyde St. #67.

MSC: To excuse Commissioner Stephenson from considering this matter. (Lipski/McGoldrick: 5-0)

After passing the above motion, the Board agreed to reschedule the hearing to a later date.

B. A memo from the City Attorney's office concerning conflict of interest laws.

VI. Old Business (cont.)

C. Recruitment of Executive Director

After review, the Commissioners approved the language for their job announcement to recruit an Executive Director. Staff will send the information to the typesetter and then have copies made for distribution.

VII. Communications (cont.)

The Commissioners received the following additional communications:

C. A memo from the staff appeals coordinator concerning the letters received by the Commissioners last week from a tenant at 1835 Vallejo Street whose appeal was denied. The Commissioners had intended staff to draft a response to the tenant for the President's signature. They also now request that the response summarize the Board's rationale for denying the tenant's appeal, as well as the tenant's grounds for a separate petition.

D. A memo from the Eviction Unit Supervisor concerning possible pre-certification procedures for substantial rehabilitation.

VIII. Remarks from the Public

Michael Harney of the Tenant's Union objected to a Commissioner's statement that the vacancy control measure on the ballot was not supported by tenant groups.

VI. Old Business (cont.)

D. Proposed Rules and Regulations Changes

Due to the lateness of the hour, the Commissioners continued this matter to the next meeting.

IX. Adjournment

Vice-president Howe adjourned the meeting at 10:25 p.m.

NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
& ARBITRATION BOARD, Tuesday, 5:30 p.m.

May 9, 1989

State Building, 350 McAllister St. #1158

AGENDA

DOCUMENTS DEPT.

MAY 8 1989

SAN FRANCISCO
PUBLIC LIBRARY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals
- | | | |
|----|---------------------------|---------------------------|
| A. | 1175 York St. | J002-08A (cont. from 5/2) |
| B. | 543 Buena Vista West #1 | J002-12A |
| B. | 2115, 2125, 2127 Hyde St. | J002-13A |
| C. | 608 O'Farrell St. | J002-14A |
| D. | 470 Collingwood St. #6 | J002-15A |
- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions
- | | | |
|----|-----------------------------|---------------------|
| A. | Request for Reconsideration | |
| | 80 Crestline | J002-96R & J002-97E |
| B. | Staff Report | |
| | 1. 2541 California #3 | J002-78E |
| | 2. 3593 Mission | J002-27E |
- IX. Old Business
- | | | |
|----|--|----------------------|
| A. | 807 Ashbury St. | J002-01A (heard 5/2) |
| B. | Recruitment of Executive Director | |
| C. | Proposed Rules and Regulations Changes | |
- X. New Business
- XI. Calendar Items
- XII. Adjournment

1690A



SF
R52
#2 5/9/89

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, May 9, 1989
at 5:30 p.m. at the State Building, 350 McAllister St. #1158

***** DOCUMENTS DEPT *****

MAY 12 1989

I. Call to Order

SAN FRANCISCO
PUBLIC LIBRARY

Vice-President How called the meeting to order at 5:35 p.m.

II. Roll Call

Commissioners Present: Hammill; How; Lipski; Soulis;
Stephenson; Villa.
Commissioners not Present: Carrico; Marshall; McGoldrick.
Staff Present: O'Hearn.

President Astle appeared on the record at 6:25 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of May 2, 1989 as written.
(Stephenson/Hammill: 5-0)

IV. Consideration of Appeals

A. 543 Buena Vista West #1 J002-12A

The landlord appeals the hearing officer's denial of his petition for an operating expense rent increase. As with his appeal on the denial of a previous petition claiming the same expenses for other units at the property, the landlord objects to the disallowance of legal expenses of almost \$26,000 incurred as a result of an unsuccessful eviction attempt. The landlord also disputes the hearing officer's determination of rent overpayments of \$203.40 resulting from the prior owner's imposition of an annual increase on the total rent including a capital improvement passthrough.

MSC: To deny the appeal. (Hammill/Stephenson: 5-0)

B. 2115, 2125, 2127 Hyde St. J002-13A

The landlord appeals the hearing officer's decision to contest computational errors in the granting of his capital improvement decision.

MSC: To remand the case to the same hearing officer for
'correction of numerical errors. (Lipski/Soulis: 5-0)

C. 608 O'Farrell St. #65 J002-14A

The landlords appeal the hearing officer's decision granting rent reductions to correspond with the lack of heat, security and elevator service. The landlords state facts in their appeal which are contradictory to the hearing officer's findings of fact.

The Commissioners agreed to postpone their consideration of this appeal for two weeks so that Commissioner Hammill could listen to the tape-recorded testimony at the hearing.

D. 470 Collingwood St. #6 J002-15A

The hearing officer granted a 40% rent reduction effective October 1987 to correspond with ceiling and wall leaks. At that time the property was held in trust by Bank of America and later owned by Wells Fargo Bank. An individual owner purchased the property in December 1988. The landlord appeals primarily contending that he has acted in good faith in attempting to repair the leaks.

MSC: To accept the appeal and schedule a hearing before the Board. (Hammill/Soulis: 4-1; Stephenson dissenting)

V. Communications

In addition to documents from the tenant-appellee at 470 Collingwood St. #6, the Board received the following communications:

A. The tenant's request for postponement of the appeal hearing scheduled on May 23rd concerning 1450 - 36th Ave., which was granted by the Board.

B. A memo from the Health Service System concerning the eligibility of Commissioners for membership entitling them to health insurance benefits through the City.

C. The draft decision for 60 Leavenworth St., distributed at the prior meeting, which was referred back to staff for review of the capital improvement passthrough calculations.

VI. Director's Report

A. A new clerk typist, Gary Burke, has been hired to fill an existing vacancy and the other clerk typist, Sherman Lo, has given notice that he will be leaving the Rent Board. Another requisition has been put in for his replacement.

B. On May 15th, the Civil Service Commission will consider the appointment of the Interim Executive Director above the entrance rate.

C. The Deputy City Attorney has been working on proposed legislation to establish Rent Board funding. A draft should be ready for the Commissioners' review at their next Board meeting.

VII. Old Business

A. Recruitment of Executive Director

The Interim Director informed the Commissioners that the job announcement had not yet been completed by the typesetter, but that it should be ready for duplication by the City Reproduction Dept. next week.

VIII. Remarks from the Public

Michael Harney of the Tenant's Union commented on the Board's consideration of comparables and proposed Rent Ordinance amendments.

IV. Consideration of Appeals (cont.)

E. 1175 York St. J002-08A (cont. from 5/2/89)

President Astle reported on her review of the tape recording of the tenant's testimony at the remand hearing indicating that the tenant did not have a clear recollection of the date the 1982 rent increase was imposed. This is one of the issues impacting on the rent history and resulting calculation of rent overpayments in the remand decision being appealed by the landlord.

MSC: To accept the appeal and schedule a Board hearing solely to determine the date of rent increase imposed in 1982. (How/Soulis: 5-0)

IX. Consideration of Allegations of Wrongful Evictions

A. Request for Reconsideration

80 Crestline Dr. #13 & #14 J002-96R & J002-97R

Both tenants request reconsideration of the hearing officer's recommendation concerning their reports of alleged wrongful eviction. Based on her evaluation that the eviction notices are proper and the landlord and his sister appear to be acting in good faith in seeking recovery of both units, the hearing officer recommended that no further action be taken by staff at this time.

The hearing officer also recommended that the landlord may choose to offer the vacant unit #12 to either vacating tenant, to offset the impact of eviction and that Rent Board staff should monitor both cases for a minimum period of one year to ensure compliance with Ordinance Section 37.9(a)(8).

Noting that this is a troubling case, staff recommends that the landlords be informed, by letter from the Commissioners, that there are some troubling aspects of this case. Accordingly, the Rent Board will keep an active involvement in the case and require that the landlord forward a copy of the APPROVED PERMIT from both BBI and Planning, 1697A

showing that the owners have permission to both (1) make the suggested structural changes and (2) remove one unit from housing stock. Only upon receipt of the approved permits will the Rent Board withdraw from active monitoring and subsequently monitor on a routine basis. If such permit approval or explanation is not submitted, the Board will consider a hearing to determine if further legal action is warranted.

MSC: To adopt staff's recommendation and to deny the tenants' request for reconsideration. (Stephenson/Hammill: 5-0)

B. Staff Report

1. 2541 California #3 J002-78E

The tenant has been in the unit for four years with the landlord's knowledge. There was clear evidence that the tenant paid a portion of the rent. The landlord admitted she didn't know that the tenant was only a caregiver living without paying rent. Accordingly, the tenant is an approved tenant under the Ordinance and, further, has the right to obtain a roommate to share the unit if she wishes (presumably with the landlord's approval).

Staff recommends that the Commissioners asked to write a cautionary letter to the owner, informing her of the tenant's right to possession, her right to the same rent--plus any allowable increases--and the right to have a roommate.

MSC: To adopt staff's recommendation.
(Stephenson/Hammill: 5-0)

2. 3593 Mission J002-27E

The landlord has clearly violated the Ordinance by (1) not having permits before giving notice of termination and not continuing in pursuing the permits, (2) not giving written notice, with time of reoccupancy, etc., (3) the tenant has been out for more than three months without the landlord's filing for a Time Extension or pursuing the work with reasonable speed, (4) the owner has not paid mandatory moving and relocation expenses, (5) a substantial rehabilitation certification is highly unlikely, since the work needed for bringing the building to "decent, safe, and sanitary housing" relates only to the bathroom, and the anticipated work is mostly discretionary, with no outstanding code violations on file. The landlords have been represented by counsel for some months, so it is assumed they knew the proper way to proceed.

Staff recommends that the Board write the landlords a stern, cautionary letter and also inform them that the matter will be monitored on a regular basis, with specific requests concerning obtaining permits, progressing with the work in a timely fashion, forwarding the relocation money, etc. If the landlords fail to comply with the law, the Board should consider setting the matter for a hearing with referral to the District Attorney.

MSC: To adopt staff's recommendation and request a further staff report on the future status of this case. (Stephenson/How: 5-0)

VII. Old Business (cont.)

B. 807 Ashbury St. J002-01A (heard 5/2)

The Commissioners discussed this appeal heard the previous week. Noting that the landlord defined "hardship" at the hearing to be the failure to obtain a fair return on the property, the Commissioners expressed concern that the landlord failed to provide enough evidence on the expenses of the property. Without such information, the Board could not determine if the income covered the expenses.

MSC: In accordance with the finding that insufficient evidence was submitted to consider the landlord's claim of a lack of fair return on the property, to remand the case for further hearing in order to determine the actual income and expenses of the building.
(How/Lipski: 5-0)

C. Proposed Rules and Regulations Changes

Due to the absence of certain Commissioners, the Board continued this matter to the next Board meeting.

X. Calendar Items

May 16, 1989

4 Appeal Considerations

2 Appeal Hearings:

6:00	900 Chestnut St. #210	H002-49R
7:00	36 Dorland St.	J002-77R (accepted 4/4)

Old Business:

- A. 762 Pine St. J001-61A & J001-59R
(heard on 2/7/89 and decided on 2/14/89)
- B. Recruitment of Executive Director
- C. Proposed Rules and Regulations Changes
- D. Staff Comments regarding Structure of the Rent Board

May 23, 1989

5 Appeal Considerations (including 1 cont. from 5/9)

Appeal Hearing: 1369 Hyde St. #67 (accepted 4/25)

Old Business:

- A. Recruitment of Executive Director
- B. Proposed Rules and Regulations Changes

May 30, 1989 - NO BOARD MEETING.

XI. Adjournment

President Astle adjourned the meeting at 7:05 p.m.



NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD, Tuesday, 5:30 p.m.

May 16, 1989

State Building, 350 McAllister St. #1158

AGENDA

I. Call to Order

II. Roll Call

III. Approval of the Minutes

IV. Consideration of Appeals

A.	2959-A - 24th St.	J002-16A
B.	153 Precita Ave.	J002-17A
C.	1604 Sanchez St. #3	J003-16R
D.	800 Bush St. #201	J002-18A

V. Communications

VI. Director's Report

VII. Remarks from the Public

VIII. Consideration of Allegations of Wrongful Evictions

Report from Staff

A.	120 Rose St.	J001-98E
B.	751 Taraval St.	J001-89E
C.	2502 - 3rd St. #1 & #4	I004-93E & J002-10E

IX. Old Business

A.	762 Pine St.	J001-61A & J001-59R
	(heard on 2/7/89 and decided on 2/14/89)	
B.	Recruitment of Executive Director	
C.	Proposed Rules and Regulations Changes	
D.	Staff Comments regarding Structure of the Rent Board	

X. New Business

Proposed Legislation to Establish Rent Board Funding

XI. Appeal Hearings

6:00	A.	900 Chestnut St. #210	H002-49R
7:00	B.	36 Dorland St.	J002-77R (accepted 4/4)

XII. Calendar Items

XIII. Adjournment

1696A



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, May 16, 1989 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

President Astle called the meeting to order at 5:44 p.m.

II. Roll Call

- Commissioners Present:
- Astle; Carrico; How; Lipski; Marshall; McGoldrick.
- Commissioners not Present:
- Hammill; Soulis; Stephenson; Villa.
- Staff Present:
- O'Hearn; Wicks.

Commissioner McGoldrick went off the record at 7:11 p.m.

III. Approval of the Minutes

- MSC:
- To approve the Minutes of May 9, 1989, as written. (Marshall/Carrico: 5-0)
- MSC:
- To amend the Minutes of April 11, 1989 at page 2, Section V, to reflect that the Commissioners also received a letter signed by all staff members countering the issues raised in the unsigned complaint letter. (Marshall/How: 5-0)

IV. Consideration of Appeals

- A. 2959-A 24th Street J002-16A

The landlord appeals the hearing officer's determination of a 20% rent reduction for verified lack of heat. The landlord argues that the tenant had not met his burden of proving a substantial reduction in housing services. The consolidated eviction issues in this case were discussed by the Board at its meeting of April 25, 1989.

- MSC:
- To deny the appeal. (Marshall/McGoldrick: 5-0)

- B. 153 Precita Ave. J002-17A

The landlord appeals the hearing officer's decision granting monthly rent reductions to correspond with the losses of a garage (\$16), and \$25 each for kitchen cabinets, uncracked linoleum, painted uncracked ceiling, and a properly working toilet. The landlord objects to the rent reductions because the tenants had not met their burden of proof to support the facts in this case.

MSC: To accept the appeal and remand the case to another hearing officer to determine which problems are decreases in services and which constitute failures to maintain and repair. (Marshall/McGoldrick: 5-0)

C. 1604 Sanchez St. #3 J003-16R

The tenant appeals the hearing officer's denial of her petition for a rent reduction. The tenant claims that the refrigerator replacing the original faulty refrigerator was a smaller, less suitable size.

MSC: To deny the appeal. (Carrico/How: 5-0)

D. 800 Bush St. #201 J002-18A

The landlord appeals for the second time the hearing officer's determination that he had incorrectly calculated a PG&E passthrough to the tenant. The tenant filed a petition on July 15, 1988 alleging that the passthrough had been incorrectly calculated. A decision was issued September 30, 1988 in which the hearing officer found that the landlord had used an improper calculation and concluded that the passthroughs imposed since August 1982 were invalid.

On November 15, 1988 the Board accepted the landlord's appeal and remanded the case for recalculation of the proper passthrough and to devise a reasonable method for transition to the proper calculation method. On appeal of the instant remand decision the landlord objects to the base period used by the hearing officer in determining the PG&E costs and passthrough.

MSC: To accept the appeal and again remand the case to a hearing officer for application of the correct Rules and Regulations in effect during the various time periods at issue. (Marshall/McGoldrick: 5-0)

V. Communications

The Commissioners received the following communications:

A. The April 1989 Rent Board statistics;

B. A response to the letter from the tenant-appellant of 1835 Vallejo St. #406 (J002-92R denied by the Board on April 18, 1989) which was approved and signed by the President;

C. The revised table for the appeal decision on 60 Leavenworth St. (J002-23R through J002-28R heard and decided on April 4, 1989.) After discussion, the Commissioners asked staff to prepare another table using per unit costs, as they believed the final figures calculated on a per room cost were not consistent with their intended decision.

VI. Director's Report

A. Acting Director O'Hearn reported that the Civil Service Commission approved the Rent Board Commissioners' salary appointment for her position as Executive Director.

B. The Rent Board staff has been augmented by the addition of another 1424 clerk typist, to fill the recent vacancy by Sherman Lo.

C. The job announcements for Executive Director have been printed and distributed to the Board, as well to various agencies and interested persons.

VII. Remarks from the Public

A. Michael Harney from the San Francisco Tenants Union commented on landlord hardship and pending Assembly bills that would affect rent control;

B. The appellant from 1604 Sanchez St. #3 (above) commented on her case.

VIII. Appeal Hearings

A. 900 Chestnut St. #210 H002-49R

This tenant's appeal was reheard by the Board following a court action brought by the landlord. The appeal (previously consolidated with others which are now settled between the parties) originally was accepted on April 14, 1987 on the issues of financial hardship and capital improvements to individual units. In the original decision on appeal rendered on June 9, 1987, the Board authorized a total capital improvement passthrough of \$217.94 per month for this tenant, to be added to her rent over a 4-year period in annual portions of approximately \$54.00 per month.

The appeal hearing commenced at 6:40 p.m. The tenant represented herself and the landlord was represented by its attorney, as well as other representatives and witnesses. Following testimony on the documentary evidence and some of the capital improvements, Commissioner Carrico suggested that the Board first consider the tenant's hardship claim. After taking evidence on that issue, the Commissioners closed that portion of the hearing at 7:25 p.m. They then passed the following motion:

MSC: That so long as the tenant's level of financial hardship remains, the tenant shall pay only a prior capital improvement passthrough of \$21.83 in addition to her base rent; provided that if there is a change in the tenant's status, the matter may be re-opened for review by the Board. The previously authorized passthrough of \$217.94 shall remain certified for this rental unit. (Marshall/Carrico: 4-0)

B. 36 Dorland St.

J002-77R

The Board accepted the tenants' appeal on April 4, 1989 to consider the issues raised by their rent decrease petition based on the loss of housing services resulting from the improper removal of asbestos ceilings. The appeal hearing commenced at 7:44 p.m. and concluded at 10:15 p.m. Both parties were represented by attorneys and witnesses.

Following the hearing, the Board considered other items on the agenda before returning to the discussion of this case. After noting the unusual facts in this particular situation, the Commissioners passed the following motion:

MSC: To reverse the decision of the Hearing Officer and grant a 50% rent decrease for a 25-day period commencing September 15, 1989. (Marshall/How: 4-0)

IX. Consideration of Allegations of Wrongful Evictions

Report from Staff

A. 120 Rose St.

J001-98E

The elderly tenant, a fifteen year resident, received an eviction notice without a reason stated, although the landlord informed the tenant that she intended to make the tenant's unit into an office. The property was purchased in March by three individuals. The landlord insisted that the property was exempt when she gave the notice because of owner-occupancy. But despite four "paper transfers" for no consideration, she did not have the proper percentage of interest when the termination notice was given.

A later notice was also given under the assumption that the property was exempt; however, the landlord's testimony and evidence go against her allegation that she lives in the property on a full-time basis. Permits may be required for removing a unit from housing use.

RECOMMENDATION: To immediately write the landlord and her attorney, stating that the Commissioners believe the property is still under the jurisdiction of the Ordinance, thus making the eviction attempt invalid because of defective notices. If the landlord proceeds with the eviction, the Board will consider referring the case to the District Attorney for prosecution. The Board will also request a statement of the type of business the owner will conduct, to determine if a permit is needed.

MSC: To adopt Staff's recommendation.
(Marshall/Carrico: 4-0)

B. 751 Taraval

J001-89E

The long-term, elderly tenants took up residence in the property thirteen years ago, with a clause in the rental agreement that allows for signs in the window and the building's exterior advertising the

tenants' small alteration and dressmaking business. Several years after occupancy, the tenant discovered she was paying for another unit's gas and water, as well as receiving excessive rent increases between 1982 and 1987. The landlord argued at the hearing that he was entitled to raise the rent without limitation since the tenancy was a commercial one. However, after the Bureau of Building Inspection (BBI) cited the landlord for conversion to a commercial unit, the owner threatened eviction of the tenants for their unauthorized commercial activity, of which he claimed to be ignorant.

BBI was satisfied merely by the removal of the signs. Soon after resolution of the commercial issue, the landlord served the tenants with a termination notice for occupancy of the landlord's son. The son had commuted to work several days a week from the North Bay for a number of years but lost use of his drivers' license for three years.

RECOMMENDATION: The landlord's motive in attempting to remove these tenants is subject to serious scrutiny, given the timing of the notice and prior involvement with BBI. The Commissioners should write the landlord a cautionary letter, expressing these concerns, and closely monitor the case.

MSC: To adopt Staff's recommendation.
(Carrico/Marshall: 4-0)

C. 2505 - 3rd St. #1 & #4 I004-93E & J002-10E

Two tenants of eighteen and sixteen years occupancy were given notices for substantial rehabilitation by the owner/professional realtor. Although the tenants' representative attempted to obtain more information from the landlord, none was given, and the tenants unwillingly vacated. The Rent Board's repeated, specific requests for documents and information were ignored by the landlord over an eight-month period.

Without filing an application with the Board, the landlord submitted inconclusive and erroneous bills in support of his claim of substantial rehabilitation. The approved permits and bills strongly suggest the landlord cannot qualify for substantial rehabilitation. However, he rented the tenants' units to new individuals--with increases of 80% to over 100% from the previous rents--despite repeated written indications that the tenants wished to move back into their units after the work was completed.

RECOMMENDATION: To set the case for a hearing for possible referral to the District Attorney for prosecution.

MSC: To adopt Staff's recommendation and set the case for a hearing. (Marshall/Carrico: 4-0)

X. Old Business

A. 762 Pine St.

J001-61A & J001-59R

Pursuant to a request for clarification, the Commissioners reviewed their decision rendered on February 14, 1989. They understood that the settlement between the parties encompassed all capital improvement passthroughs authorized by the Board.

B. Recruitment of Executive Director

The Commissioners received job announcements for their distribution.

C. Proposed Rules and Regulations Changes

Due to the lateness of the hour, the Commissioners postponed their discussion for following meetings.

D. Staff Comments regarding Structure of the Rent Board

The Commissioners received comments from the Eviction Unit Supervisor and the Interim Executive Director.

XI. New Business

Proposed Legislation to Establish Rent Board Funding

Due to the lateness of the hour, staff summarized the proposal for the Commissioners' consideration at their next meeting.

XII. Adjournment

President Astle adjourned the meeting at 11:10 p.m.



NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
& ARBITRATION BOARD, Tuesday, 5:30 p.m.

May 23, 1989

State Building, 350 McAllister St. #1158

AGENDA

I. Call to Order

II. Roll Call

III. Approval of the Minutes

IV. Consideration of Appeals

A.	608 O'Farrell St. #65	J002-14A (cont. from 5/9)
B.	129-131 Lower Terrace St.	J003-17R and J003-18R
C.	791-793 Dolores St.	J002-20A
D.	587 Haight St.	J002-19A
E.	1015-A Silver Ave.	J003-19R

V. Communications

VI. Director's Report

VII. Remarks from the Public

VIII. Consideration of Allegations of Wrongful Evictions

Report from Staff

IX. Old Business

A.	Proposed Legislation to Establish Rent Board Funding
B.	Review of Decision for 60 Leavenworth St.
C.	Recruitment of Executive Director
D.	Proposed Rules and Regulations Changes

X. New Business

XI. Appeal Hearing

7:00 1369 Hyde St. #67

J002-06A (accepted 4/25)
(postponed from 5/9)

XII. Calendar Items

XIII. Adjournment

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, May 23, 1989
at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

President Astle called the meeting to order at 5:39 p.m.

II. Roll Call

Commissioners Present: Astle; Hammill; How; Lipski;
Marshall; Villa.
Commissioners not Present: Soulis; Stephenson.
Staff Present: O'Hearn; Wolf.

Commissioners Carrico and McGoldrick appeared on the record at 5:40 p.m.; Commissioner Hammill went off the record at 7:15 p.m.

III. Old Business

A. Proposed Legislation to Establish Rent Board Funding

The Commissioners discussed legislation proposed by the Mayor to establish Rent Board funding. A Mayor's Budget Analyst and a Deputy City Attorney were present to answer questions. The Board passed the following motion:

MSC: To approve the proposed fee legislation.
(McGoldrick/Marshall: 3-2; Carrico and How dissenting)

IV. Approval of the Minutes

MSC: To approve the Minutes of May 16, 1989 as written.
(Marshall/How: 5-0)

V. Consideration of Appeals

A. 608 O'Farrell St. #65 J002-14A (cont. from 5/9)

Commissioner Hammill reported on her review of the tape-recorded testimony at the hearing and found no basis for the landlords' statement of facts contradictory to the hearing officer's Findings of Fact.

MSC: To deny the appeal. (McGoldrick/How: 4-0; Carrico abstaining)

B. 129-131 Lower Terrace St. J003-17R & J003-18R

Two tenants appeal the hearing officer's decision certifying capital improvements, alleging that the exterior painting of the building was necessitated by the landlord's deferred maintenance. One tenant also appeals on the basis of hardship.

MSC: To deny both appeals regarding the issue of capital improvement certification, but to accept one tenant's appeal on the basis of hardship. (Carrico/How: 5-0)

C. 791-793 Dolores St. J002-20A

The landlords appeal the hearing officer's determination that they failed to meet the burden of proving that the building qualifies for owner-occupancy exemption, as they did not attend the properly noticed hearing. The hearing officer also granted rent reductions for decreased housing services. The landlords provide a copy of a letter and Grant Deed allegedly sent to the Rent Unit Supervisor, although these were not received at the Board office and therefore were not part of the record at the time of hearing.

MSC: To remand the case to the same hearing officer for a hearing on the issue of jurisdiction with instructions that mere presentation of the Grant Deed is insufficient to determine exemption. (Carrico/How: 4-1; Marshall dissenting)

D. 587 Haight Street J002-19A

The landlord appeals the hearing officer's remand decision granting rent reductions due to ceiling leaks. On appeal, the landlord maintains that evidence of abatement of the problem was ignored by the hearing officer and that the tenant's statements were not supported by adequate documentation.

MSC: To deny the appeal. (Carrico/Marshall: 5-0)

E. 1015-A Silver Avenue J003-19R

The tenant's petition regarding decreased housing services was denied due to lack of jurisdiction. The tenant's petition concerns a garage he rents next door to the residential space he occupies. On appeal, the tenant argues that the space should be covered because City Planning favors garage use as parking space for neighborhood residents.

MSC: To deny the appeal. (Marshall/McGoldrick: 5-0)

VI. Communications

The Commissioners received a letter from the landlord's attorney regarding the scheduling of the case at 1350 California St. (J007-07T) and letters from the tenant-appellants at 129-131 Lower Terrace (J003-17R and J003-18R).

III. Old Business (cont.)

B. Review of Decision for 60 Leavenworth St.
J002-23R through J002-28R

The Commissioners discussed the decision rendered as the result of a Board hearing held on April 4, 1989 and made the following motion:

MSC: To re-open this case and schedule a new hearing before the Board on the issue of the amounts certified only.
(Marshall/How: 4-0)

C. Recruitment of Executive Director

The Commissioners discussed the potential need for an Interim Acting Director during the month of August, when the current Acting Director will be on leave and a new Executive Director may not have started working for the Board. Commissioners Lipski and McGoldrick expressed interest in the position.

VII. Appeal Hearing

1369 Hyde Street #67

J002-06A

After plumbing work had been done in his unit, large holes remained in the tenant's bedroom walls where pipes had been replaced. The original decision granted a rent reduction to correspond with the decreased housing services. On initial appeal, the landlord alleged that the tenant had refused to provide him access to make the necessary repairs. The case was remanded to the same hearing officer to consider the access issue only, and the original decision was essentially affirmed on remand.

The appeal hearing commenced at 7:17 p.m. and concluded at 8:49 p.m. Both parties appeared with their attorneys and the landlord also had two witnesses. Testimony focused on the length of time services were reduced and the landlord's agents attempts to gain access. After discussing the evidence and testimony, the Commissioners passed the following motion:

MSC: To find that a reduction in services valued at \$60.00 per month existed from May 15, 1988 to November 15, 1988; and that a \$30.00 decrease existed from November 15 to December 15, 1988. (Marshall/McGoldrick: 5-0)

III. Old Business (cont.)

D. Proposed Rules and Regulations Changes

The Commissioners discussed some of the proposed Rules changes still pending, particularly in the areas of capital improvements and pre-certification hearings. Staff will provide the Board members with a sample of capital improvement cases from the past year in order for them to attempt to identify problem areas and potential solutions. The Board tentatively set July 25, 1989 for a public hearing.

VIII. Calendar Items

May 30, 1989 - No Board meeting

June 6, 1989

4 appeal considerations

Appeal Hearings:

6:00 1450 36th Ave. J002-11A and J003-12R
(accepted 5/12/89)

7:00 1175 York St. J002-08A (accepted 5/9/89)

Old Business:

A. Recruitment of Executive Director

B. Proposed Rules and Regulations Changes

June 13, 1989

5 appeal considerations

Appeal Hearings:

6:00 129 Lower Terrace J003-17R (accepted 5/23/89)

7:00 470 Collingwood St. #6 J002-15R (accepted 5/23/89)

June 20, 1989 - Board meeting will be held.

6:00 Appeal Hearing:

60 Leavenworth St. J002-23R through J002-28R
(Rehearing on amounts of passthrough determined 4/4/89)

IX. Adjournment

President Astle adjourned the meeting at 9:45 p.m.

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, June 6, 1989
at 5:30 p.m. at the State Building, 350 McAllister St. #1158

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I. Call to Order

Commissioner Carrico called the meeting to order at 5:43 p.m.

II. Roll Call

Commissioners Present: Carrico; Hammill; How; Lipski;
Marshall; Soulis; Villa.
Commissioners not Present: Astle; McGoldrick; Stephenson.
Staff Present: Wicks.

Commissioner Marshall appeared on the record at 5:47 p.m.; Acting
Director O'Hearn appeared on the record at 7:15 p.m.; Commissioner
Soulis went off the record at 7:10 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of May 23, 1989 as written.
(How/Lipski: 4-0)

IV. Consideration of Appeals

A. 1048 Union St. J002-21A

The landlords appeal the hearing officer's decision granting capital
improvement passthroughs, but denying an operating and maintenance
increase because the increase was assessed three years after the date
it accrued. On appeal the landlords insisted that they should not be
penalized since they could not pay the bills when accrued because the
City did not bill them at that time.

MSC: To remand the case to the same hearing officer to
compare the 1987 period before supplemental taxes were
assessed with the 1988 period after imposition of
supplemental taxes for that period.
(Carrico/How: 5-0)

B. 592 - 28th Avenue J003-20R

This case involves a tenant appeal of a remand decision. The sole
issue concerns whether or not walkway work should be certified as a
capital improvement. Although no representative of the landlord's
conservancy appeared, the tenants established with photographic
evidence that the walkway benefited only one unit. Accordingly, that
improvement was not assessed on remand to the appealing tenants. The
subject action concerns a tenant in another unit who now appeals on

several issues, including financial hardship, indicating that she was previously unable to file an appeal in a timely manner because of several hospitalizations.

MSC: To accept the appeal at the Board level on the issues of certification of the walkway work and tenant
- hardship. (Marshall/Lipski: 5-0)

C. 751 Taraval St.

J002-22A

This case, previously presented to the Board after a finding of attempted wrongful eviction [Minutes of May 16, 1989], involves a landlord's appeal of a ruling involving illegal rent increases and decreased services. Four improper increases were given, for a refund of \$11,025.00; the tenant's assumption of water service payments resulted in a decreased service sum of \$285.00. On appeal the landlord argues that the hearing officer should have offset the improper rent increases against the years for which lawful banking was available; no account was taken of the area of the unit used for the tenant's dressmaking business; the landlord will experience hardship if the decision is affirmed.

MSC: To accept the case at the Board level on the issues of attempted wrongful eviction, landlord hardship, and null and void increases. (How/Carrico: 4-1; Hammill dissenting.)

D. 445 Tehama St.

J002-23A

Three tenants filed on various claims of decreased services, failure to repair, and unlawful rent increases. The new owner attempted to make repairs and abate an outstanding BBI citation for code violations. The hearing officer found improper rent increases and a failure to maintain and repair but did not find decreased services. The landlord appeals the decision as it pertains to one tenant, providing a chart of what would have been the proper rent, given all allowable increases.

MSC: To uphold the hearing officer and deny the appeal.
(Lipski/Marshall: 5-0)

V. Appeal Hearings

A. 1450-36th Ave.

J002-11A & J003-12R

Both the landlord and tenant appealed the hearing officer's decision that approved capital improvements made from 1983-1987, for a monthly total of \$86.04. Past incorrect rent increases in 1983 and 1984 had also resulted in a finding of approximately \$7,000 in overpayments. On appeal the landlord protested that she had been unaware of rent limitations when the incorrect increases were given and that only the excess should be refunded. The elderly tenant appealed on the basis of financial hardship. The Board had accepted both appeals.

At the hearing before the Commissioners, the landlord appeared with her attorney and the tenant appeared with her daughter as representative. The landlord argued that she was unaware of the Ordinance when the excessive increases were given--in annual \$50 increments--and that these excessive amounts were not brought up by the tenant until review of the petition for capital improvements. She asked that only the excess beyond the allowable amounts, not entire increases, be refunded. The tenant stated that the increase of \$86.04 constitutes a financial hardship for her since she is on a fixed income and currently pays about 58% of her net income for rent. She does have some savings with resulting interest income.

After hearing the testimony and reviewing the evidence, the Commissioners encouraged the parties to attempt to resolve the matters by settlement. Accordingly the matter was continued until June 20, 1989, to allow time for resolution.

VI. Communications

The Commissioners received the following communications:

A. The appeal decisions for 900 Chestnut St. [H002-49R] and 1369 Hyde St. #67 [J002-06A], which were approved and signed;

B. A request for postponement of the June 13, 1989 hearing concerning 129 Lower Terrace. The Board voted as follows:

MSC: To continue the matter to a later date.
(Marshall/Hammill: 5-0)

C. A statement from the landlord for 60 Leavenworth; discussion of this statement will be put on the next agenda.

V. Appeal Hearing (contd.)

B. 1175 York J002-08A (accepted 5/9/89)

The original decision in this matter granted the tenant a rent reduction based on decreased services and reimbursement for rent overpayments. The landlord appealed the decision as to rent overpayments, and the Board remanded the case to allow evidence regarding improper rent increases. As the landlord offered no additional evidence on remand, the original decision was affirmed. The landlord appealed the remand decision, maintaining that it was the tenant's burden to prove the rent increase history. The Board accepted the case for hearing on the limited issue of determining the date the 1982 rent increase was imposed.

At the hearing before the Commissioners, the landlord appeared with his attorney, and the tenant represented herself. At issue was the date of imposition of the 1981 increase; the tenant believed the increase was given in August, thereby nullifying the July 1982 increase given less than 12 months later. The landlord had no information on this issue since he purchased the property in 1984 and was unable to get this data

from the prior owners. The tenant showed documentation on all of her other increases, which she felt established a pattern that would indicate August was the increase month, even though she could not definitely recollect the date.

- MSC: To vacate the hearing officer's decision concerning the
- 1982 rent raise and find that to be a legally valid
increase. (How/Lipski: 5-0)

VII. Director's Report

The Acting Executive Director discussed the following items:

- A. A letter from ArtHouse and a brochure on artist live-work issues, including applicability of the Rent Ordinance;
- B. An article from the Chronicle on 5/30/89 concerning the Board's rulings on asbestos disputes and the resulting public response;
- C. The 1989 budget proposal with the Mayor's recommendations. The Finance Committee will discuss the budget at its June 13, 1989 hearing;
- D. A statistical summary of all petitions filed since the inception of the Rent Board.

VIII. Old Business

- A. Recruitment of Executive Director

The Commissioners received a resume for the position of Executive Director. They also discussed various possibilities for staffing during the possible absence of other staff members.

- B. Other Matters

It was the consensus of the Board to continue the re-hearing on 60 Leavenworth Street to July 11, 1989, since several involved Commissioners will be on vacation on June 20, 1989.

- C. Proposed Rules and Regulations Changes

The committee for possible Rules changes concerning substantial rehabilitation will meet again and present the Commissioners with their proposals at the June 13, 1989 meeting. The Board also discussed the procedure for sending notices of the Public Hearing.

VII. Director's Report (cont.)

- D. The Acting Executive Director discussed the Court of Appeal decision on Parkmerced Residents Organization v. S.F. Rent Board.

IX. Calendar Items

June 13, 1989

5 appeal considerations

Appeal Hearing

7:00- 470 Collingwood St. #6 J002-15A (acctpt. 5/9/89)

Old Business

- A. Appointment of the Executive Director
- B. Proposed Rules and Regulations Changes
- C. 60 Leavenworth St. letter

June 20, 1989

2 appeal considerations

Eviction Hearing

6:30- 2502- 3rd St. #4 I004-93E & J002-10E
(accepted 5/16/89)

Old Business

- A. Appointment of the Executive Director
- B. Proposed Rules and Regulations Changes
- C. 1450 - 36th Ave. J002-11A & J003-12R (heard 6/6/89)

X. Adjournment

Commissioner Carrico adjourned the meeting at 8:35 p.m.



NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD, Tuesday, 5:30 p.m.
June 13, 1989

State Building, 350 McAllister St. #1158

AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals
 - A. 355 Fulton St. #45
 - B. 1560 McAllister St. #11
 - C. 1676 Sanchez St.
 - D. 269 Raymond Ave.
 - E. 630 Fillmoare St. #101

J002-24A
J002-25A
J003-22R
J003-21R
J002-26A

- V. Communications
- VI. Director's Report
- VII. Remarks from the Public

VIII. Consideration of Allegations of Wrongful Evictions

IX. Old Business

- A. Appointment of Executive Director - EXECUTIVE SESSION
PURSUANT TO GOVERNMENT CODE Section 54957
- B. Proposed Rules and Regulations
- C. 60 Leavenworth St. letter

X. New Business

XI. Appeal Hearing

7:00 470 Collingwood St. #6 J002-15A (accepted 5/9/89)

XII. Calendar Items

XIII. Adjournment

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JUN 12 1989

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6/13/89

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, June 13, 1989
at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

President Astle called the meeting to order at 5:35 p.m.

II. Roll Call

Commissioners Present: Astle; Lipski; Marshall; Soulis;
Stephenson; Villa.
Commissioners not Present: Carrico; Hammill; How
Staff Present: Wolf.

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Commissioner McGoldrick appeared on the record at 5:41 p.m. JUN 19 1989

III. Approval of the MinutesSAN FRANCISCO
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MSC: To approve the Minutes of June 6, 1989 with the
following correction: Commissioner Lipski was excused
from the appeal hearing concerning 1450-36th Avenue
(J002-11A and J003-12R). (Marshall/Villa: 4-0)

IV. Consideration of Appeals

A. 355 Fulton Street #5 J002-24A

The landlord appeals the hearing officer's decision granting the tenant rent reductions due to decreased housing services. The landlord made no appearance at the hearing; when contacted by staff, the resident manager said that he was sick. On appeal, the landlord maintains that the tenant had agreed to a postponement of the hearing, and requests another hearing to correct alleged mis-statements by the tenant.

MSC: To remand this case for a new hearing.
(Villa/Marshall: 4-0)

B. 1560 McAllister St. #11 J002-25A

The landlord appeals the hearing officer's remand decision refunding overcharges due to past illegal rent increases. The landlord alleges that the tenant failed to meet his burden of proof regarding the rent history, as he did not furnish copies of rent increase notices.

MSC: To deny the appeal. (Marshall/Astle: 4-0)

C. 1676 Sanchez St.

J003-22R

The tenant appeals the hearing officer's denial of his petition alleging decreased housing services and illegal rent increases. The landlord had "rounded up" to the next highest dollar amount, which the hearing officer found to be de minimus and allowable due to banking. The tenant maintains that, as the notice did not specify the portions attributable to banking, the increases were null and void. The decrease in services allegations stemmed from inconvenience due to open houses being held, an area outside of Rent Ordinance jurisdiction, and loss of storage space, for which the tenant had been compensated.

MSC: To deny the appeal. (Marshall/Soulis: 4-0)

D. 269 Raymond Avenue

J003-21R

The tenant failed to appear at a properly noticed hearing and his petition was therefore dismissed with prejudice. On appeal, the tenant maintains that he did not receive notice of the hearing.

MSC: To remand this case for a new hearing.
(Marshall/Villa: 5-0)

E. 630 Fillmore Street #101 J002-26A

The landlord appeals the hearing officer's decision granting rent reductions due to decreased housing services. The landlord failed to appear at the hearing but was represented by counsel. On appeal, the landlord alleges that his failure to personally appear prejudiced the hearing officer; the tenant did not have a right to use of a storage closet under the written lease; and the hearing officer failed to acknowledge conditions that had been repaired and improved by the owner.

MSC: To deny the appeal. (Marshall/McGoldrick: 5-0)

V. Executive Session

At 6:05 p.m. the Commissioners went into Executive Session pursuant to Government Code Section 54957 to discuss the applications received thusfar for the position of Executive Director and other personnel matters. The Board went back on the record at 6:42 p.m. and made the following motion:

MSC: The Board wishes Commissioner Lipski to assume the position of Deputy Director in early July as he is not applying for the position of Executive Director.
(Villa/Soulis: 4-0)

VI. Communications

The Board received the following communications:

A. A letter from the landlord's attorney regarding the case at 470 Collingwood Street #6 (J002-15A), originally scheduled to be heard by the Board this evening, requesting a postponement pending the parties' settlement of the matter.

MSC: To grant the request for postponement.
(Marshall/Villa: 5-0)

B. A request for postponement of the eviction hearing for the case at 2502 3rd Street (I004-93E and J002-10E), scheduled for June 20, 1989 at 6:30 p.m. It was the consensus of the Board to defer this matter to the discretion of the Eviction Unit Supervisor.

VIII. Old Business

A. Commissioner Lipski distributed draft copies of proposed Rules changes regarding substantial rehabilitation, developed in conjunction with Commissioner Hammill and Eviction Unit Supervisor Wicks. The proposals will be discussed at next week's meeting.

B. The Board discussed an unsigned letter submitted on behalf of the landlord at 60 Leavenworth Street; a letter will be sent from the Board President backing up the information that has been conveyed by staff regarding this case.

IX. New Business

A. Commissioner Stephenson distributed brochures regarding the Affordable Housing Fair, scheduled for August 26, 1989 at Civic Center. The Commissioners contributed the \$25.00 entry fee in order that the Rent Board have a booth at the event.

B. Commissioner McGoldrick informed the Commissioners that a forum regarding the Affordable Housing Action Plan developed by the Mayor's Advisory Committee will be held on June 28, 1989 at 7:30 p.m. in the Supervisors' Chambers. Staff will attempt to obtain copies of the Plan and other relevant documents for the Board members.

C. Commissioner McGoldrick pointed out that it is the one-year anniversary of the appointment of the new Commissioners; it is also the 10-year anniversary of the effective date of the Rent Ordinance. Congratulations were exchanged.

X. Calendar Items

June 20, 1989

2 appeal considerations
Eviction Hearing

6:30 2502 3rd Street #4

I004-93E and J002-10E
(accepted 5/16/89)

Old Business

- A. Appointment of Executive Director
- B. Proposed Rules and Regulations Changes
- C. 1450 36th Avenue J002-11A and J003-12R
(heard 6/6/89)

June 27, 1989

4 appeal considerations

Appeal Hearings:

6:00	592 28th Avenue	J003-20R (accepted 6/6/89)
7:00	129 Lower Terrace	J003-17R (accepted 5/23/89 cont. from 6/13)

Old Business

- A. Appointment of Executive Director
- B. Proposed Rules and Regulations Changes

XI. Adjournment

President Astle adjourned the meeting at 7:25 p.m.



NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
& ARBITRATION BOARD, Tuesday, 5:30 p.m.

June 20, 1989

State Building, 350 McAllister St. #1158

AGENDA

DOCUMENTS DEPT.

JUN 19 1989

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- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals
 - A. 2966 Bush Street J002-27A
 - B. 75 Hancock St. #2 J002-28A
- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions
 - A. Staff Report
 - 1. 75 Hancock St. #2 J003-75E
 - 2. 120 Rose St. J001-98E
 - 3. 2541 California St. #3 J002-78E
 - 4. 3593 Mission St. J002-27E
- IX. Old Business
 - A. 1450 - 36th Ave. (heard 6/6/89)
 - B. Appointment of Executive Director - EXECUTIVE SESSION
PURSUANT TO GOVERNMENT CODE Section 54957
 - C. Proposed Rules and Regulations Changes
- X. New Business
- XI. Calendar Items
- XII. Adjournment



SE
R52
#2 6/20/89

JUN 26 1989

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, June 20, 1989 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

Commissioner Carrico called the meeting to order at 5:40 p.m.

II. Roll Call

Commissioners Present: Carrico; Hammill; Lipski; Soulis; Stephenson; Villa.
Commissioners not Present: Astle; How; McGoldrick.
Staff Present: O'Hearn; Wicks.

Commissioner Marshall appeared on the record at 5:42 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of June 13, 1989 with the following revision on page 2 for the motion under item V. Executive Session:

The Board wishes Commissioner Lipski to assume the position of interim Deputy Director during the month of July and interim Executive Director thereafter, if necessary, as he is not applying for the position of Executive Director. (Villa/Stephenson: 5-0)

IV. Consideration of Appeals

A. 2966 Bush St. #2 J002-27A

The landlord appeals the hearing officer's decision granting a \$50.00 rent reduction for loss of a parking space for which she paid that amount. On appeal the new owners protested that they knew nothing of such an arrangement, despite inquiries of both the former landlord and tenant concerning any additional agreements. Further, there is no parking in the subject building, and the space at issue is in an off-site area having no relationship to the current landlords.

MSC: To remand the case to the same hearing officer for more specific findings explaining the sequence of events regarding the garage. (Marshall/Villa: 5-0)

B. 75 Hancock St. #2 J002-28A

The hearing officer's decision is appealed by the landlord following a rent decrease of \$75.00 per month to correspond with the tenant's loss of his parking space. The tenant believed the landlord had agreed to not raise his rent, for an unspecified period of time, in exchange for

return of the parking slot. The landlord's view of the agreement differed. After finding that no agreement had been reached, the hearing officer ruled that a decreased service had been established. On appeal the landlord argued that the time period used by the hearing officer involved a calculation error.

MSC: To remand the case for a technical correction.
(Villa/Marshall: 5-0)

V. Communications

The Commissioners received the following communications:

A. A request from Randy Shaw of the Tenderloin Housing Clinic for swift consideration of changes to the substantial rehabilitation section of the Rules.

B. A draft letter to the landlord of 60 Leavenworth Street, which was approved;

C. The draft decision for 36 Dorland St. #1, which will be reviewed for approval at the June 27, 1989 meeting;

VI. Director's Report

Acting Director O'Hearn discussed the Finance Committee budget hearings. The departmental hearing on the budget was continued to June 21, 1989, to be consolidated with the public hearing on the proposed Rent Board fee legislation.

VII. Remarks from the Public

Michael Harney discussed his concerns with the process for selecting a new Executive Director, in particular requesting that it will be done in public and not in Executive Session. He also stressed the importance of formulating a policy on asbestos contamination.

VIII. Considerations of Allegations of Wrongful Eviction

Staff Report

A. 75 Hancock St. #2 J003-75E

The landlord has filed an Unlawful Detainer in court for the tenant's refusal to allow access for installation of a hard wire smoke detector. The tenant objected that after he filed a tenant petition with the Rent Board, the landlord expressed anger at this action. Immediately after the hearing the landlord began asking for entry for the smoke detector. The tenant argued that he already had a hard wire unit and asked for an explanation, since a Building Inspector had informed him that another one was not needed. However, the landlord insisted that he had a BBI notice to install a detector. Although there are concerns of retaliation, both sides have valid issues.

RECOMMENDATION: To monitor the court matter.

B. 120 Rose St.

J001-98E

The Commissioners were informed that this case (discussed May 16, 1989) appeared to be resolved, with the landlord withdrawing the eviction action against the elderly tenant. After the hearing officer's determination that owner-occupancy exemption had not been shown, the landlord has apparently not been seen around the property.

C. 3593 Mission Street

J002-27E

An update was given on this matter, referred to the Board on May 16, 1989, concerning the eviction of a tenant for improvements when the landlord had no permits, refused to give mandatory relocation reimbursement, and could not tell the tenant when the work would begin or be completed. After a letter to the landlord from the Board, the landlord complied with the request for copies of permits and other information. The case will continue to be closely monitored.

D. 2541 California St. #3

J002-78E

Following the Board's letter to the landlord and her attorney--concerning the Commissioners' agreement with the hearing officer that the subject occupant was a bona fide tenant--the attorney wrote the Board with concerns and a differing opinion of the situation.

RECOMMENDATION: To write the landlord's attorney on the following issues: (1) reaffirm the tenant's right to have a roommate, encouraging the parties to negotiate a mechanism for approving new occupants; (2) suggest the tenant may not have to sign a new detailed agreement since none existed before; (3) recommend the landlord implement Rule 6.14; (4) inform the parties of the limitations on the tenant for charging rent to roommates; (5) assure the landlord and her attorney that the Board is concerned with issues already before it and has no intention of prohibiting any legal actions available to the landlord for tenant actions in the future.

MSC: To accept Staff's Recommendation. (Marshall/Villa: 5-0)

IX. Old Business

A. 1450-36th Ave.

J002-11A & J003-12R

This case was the subject of an appeal hearing on June 6, 1989. At the close of the hearing, the parties were encouraged to take two weeks to attempt a settlement. From their subsequent written statements, it appeared that no settlement was possible; the tenant's representative asked the Commissioners to decide the matter and not ask that further negotiation be attempted.

Before reviewing the matter, the Commissioners voted as follows:

MSC: To excuse Commissioner Lipski from this case.
(Marshall/Hammill: 5-0)

The Commissioners discussed the facts of the case as well as the settlement proposal from the landlord's attorney. After reviewing the evidence, the following motion was passed:

MSC: To set the base rent at \$643.42; capital improvement costs shall be amortized over 15 years at a total monthly charge of \$65.54 per month; the rent overpayment due the tenant is \$4814.41.
(Marshall/Villa: 3-1; Hammill dissenting)

B. Appointment of the Executive Director

The Board discussed establishing procedures for interviewing references, which they will formulate at the June 27th meeting. Since no specific review of individual applicants was held, the Board did not go into Executive Session as would be required for discussion of the confidential matters in each resume. It was decided that the special meeting of July 5, 1989--to review individual applicants--would be held at the Rent Board office.

C. Proposed Rules and Regulations Changes

The Commissioners reviewed the suggested draft language for revisions and additions to Rules Sections 1.16, 8.10, 8.13, and 8.14 concerning substantial rehabilitation. Further work on the draft language will be reviewed at the June 27th meeting.

X. Calendar Items

June 27, 1979

5:30- EXECUTIVE SESSION pursuant to Govt. Code Section 54596.9(a)
concerning 230 Castro Street (J002-31A & J003-23R)
2 other appeal considerations

Appeal Hearings

6:00- 592-28th Ave. J003-20R (accepted 6/6/89)

7:00- 129 Lower Terrace J003-17R (continued from 6/13/89)

Old Business

A. 36 Dorland decision J002-77A

B. Proposed Rules and Regulations Changes

C. Appointment of Executive Director--EXECUTIVE SESSION
PURSUANT TO GOVERNMENT CODE SECTION 54957

July 4, 1989 - NO MEETING

July 5, 1989

5:30 SPECIAL MEETING for Discussion of Applicants for Executive
Director--EXECUTIVE SESSION PURSUANT TO GOV. CODE SEC. 54975

July 11, 1989

5 appeal considerations

Appeal Hearings

6:00- 60 Leavenworth J002-23R-J002-28R (reopened from 4/4/89)

7:00- 751 Taraval J002-22A & J001-89E

Old Business

A. Appointment of Executive Director--meeting with Civil
Service Affirmative Action Officer

B. Proposed Rules and Regulations Changes

XI. Adjournment

Commissioner Carrico adjourned the meeting at 8:15 p.m.



NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
& ARBITRATION BOARD, Tuesday, 5:30 p.m.

June 27, 1989

State Building, 350 McAllister St. #1158

AGENDA

I. Call to Order

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II. Roll Call

JUN 26 1989

III. Approval of the Minutes

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IV. Consideration of Appeals

- | | | |
|----|--|---------------------|
| A. | 230 Castro St. #2, 4, 6 | J002-31A & J003-23R |
| | EXECUTIVE SESSION pursuant to Government Code 54596.9(a) | |
| B. | 1717 Mason St. #4 | J002-29A |
| C. | 2280 Pacific St. #201, 603, 704 | J002-30A |

V. Communications

VI. Director's Report

VII. Remarks from the Public

VIII. Consideration of Allegations of Wrongful Evictions

IX. Old Business

- | | |
|----|--|
| A. | 36 Dorland St. Decision |
| B. | Proposed Rules and Regulations Changes |
| C. | Appointment of Executive Director--EXECUTIVE SESSION |
| | PURSUANT TO GOVERNMENT CODE SECTION 54957 |

X. New Business

XI. Appeal Hearings

- | | | | |
|------|----|-------------------|-----------------------------|
| 6:00 | A. | 592-28th Ave. | J003-20R (accpt. 6/6/89) |
| 7:00 | B. | 129 Lower Terrace | J003-17R (contd. from 6/13) |

XII. Calendar Items

XIII. Adjournment

1754A



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, June 27, 1989
at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

Vice-President How called the meeting to order at 5:40 p.m.

II. Roll Call

Commissioners Present: Carrico; How; Lipski; Villa.

Commissioners not Present: Astle; Hammill; McGoldrick;

Soulis; Stephenson. DOCUMENTS DEPT.

Staff Present: O'Hearn; Wolf.

Commissioner Marshall appeared on the record at 5:42 p.m.

JUN 30 1989

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III. Approval of the Minutes

MSC: To approve the Minutes of June 20, 1989 as written.
(Carrico/Lipski: 3-0)

IV. Consideration of Appeals

A. 230 Castro Street #2, 4 & 6 J002-31A and J003-23R

This case involves a landlord petition for certification of capital improvements, filed on June 17, 1988. The landlord filed an amended petition on June 27, 1988. A hearing was conducted on July 21, 1988 and a decision issued on August 29, 1988. All three tenants appealed the decision and on October 4, 1988 the appeals were considered and denied by the Board. The tenants filed a petition for a Writ of Administrative Mandamus in San Francisco Superior Court (No. 901184) on January 3, 1989 to set aside the previous decision. The court action was dismissed when the Board remanded the case for hearing to review the issues raised in the appeals.

The landlord and the tenants in unit #6 appeal the Hearing Officer's Decision on Remand issued on May 25, 1989. The tenants contend that the decision contains an arithmetical error; that the Ordinance requires that increases even slightly above limitations be null and void; and that increases and payments occurring after the original decision should be factored in. The landlord maintains that additional capital improvements should be certified as the proper permits were obtained or, if not, it was the contractor's omission for which the landlord should not be penalized.

MSC: To accept on the issues of arithmetical error and improper rent increases raised in the tenant's appeal; and the issue of the permit for copper piping raised in the landlord's appeal. (Carrico/Lipski: 4-0)

B. 1717 Mason St. #4

J002-29A

The landlord appeals the hearing officer's decision granting rent reductions due to decreased housing services. The hearing officer found that security in the building was compromised because garage door locks were replaced four times within a four-month period. The landlord maintains that the lock was repaired within a day or two of each incident.

MSC: To remand the case on the issue raised in the landlord's appeal regarding the appropriate length of time for a rent reduction due to the broken lock. (Carrico/Marshall: 4-0)

C. 2280 Pacific St. #201, 603, 704 J002-30A

As the Commissioners did not receive the hearing officer's decision in this case, this consideration was continued to the July 11, 1989 meeting.

V. Communications

The Board received the following communications:

A. An article from The Recorder of June 22, 1989 regarding settlement of a lawsuit involving the property at 1400 Washington Street, the subject of prior Board proceedings.

B. The workload statistics for May 1989. Commissioner Carrico noted the increase in Reports of Alleged Wrongful Eviction.

C. A letter from the landlord of the case at 129 Lower Terrace (J003-17R), scheduled for Board hearing at this evening's meeting. A postponement request was also received from the tenant.

MSC: To grant the postponement request. (Carrico/Lipski: 4-0)

VI. Director's Report

Acting Director O'Hearn discussed the results of the Finance Committee budget hearings and informed the Board that the Board of Supervisors' meeting on the budget and proposed fee legislation has been continued to July 11, 1989.

VII. Remarks from the Public

Michael Harney of the Tenant's Union commented on the proposed fee legislation, commended the Board for discussing the appointment of an Executive Director in open session last week and introduced Steve Harold, a new intern.

VIII. Appeal Hearing

592 28th Avenue

J003-20R

This case involves a tenant appeal of a remand decision. Several tenants had previously prevailed on appeal regarding the certification of walkway work, establishing through photographic evidence that the work only benefited one unit. This tenant appealed regarding the walkway work and financial hardship, and the Board accepted the appeal on both issues.

The tenant appeared at the appeal hearing and represented herself; the landlord's conservancy was represented by counsel. The Commissioners specified at the commencement of the hearing that the walkway work would not be assessed to this tenant, as this issue has already been resolved. Additionally, it was pointed out that the landlord's notice of rent increase compounds banked increases and is therefore null and void. Testimony at the hearing therefore centered on the tenant's income, resources and expenses.

After hearing the testimony and reviewing the evidence, the Commissioners passed the following motion:

MSC: To suspend the capital improvement pass-through of \$64.66 for this tenant but certify this amount for this unit upon vacancy or in the event that the tenant's circumstances change; and to declare the landlord's notice of rent increase null and void and refund any sums overpaid. The rent may be increased to \$321.00 with new 30 day notice. (Marshall/Carrico: 4-0)

IX. Calendar Items

July 4, 1989 - No Meeting

July 5, 1989

5:30 Special Meeting for discussion of applicants for Executive Director - Executive Session pursuant to Gov. Code Section 54975. Proposed Amendments to Rules and Regulations.

July 11, 1989

7 appeal considerations (1 continued from 6/27).

Appeal Hearings

6:00 60 Leavenworth J002-23R-J002-28R (reopened from 4/4/89)

7:00 751 Taraval J002-22A and J001-89E

Old Business

A. Appointment of Executive Director - meeting with Civil Service Affirmative Action Officer

B. Proposed Rules and Regulations Changes.

X. Old Business

A. 36 Dorland St. Decision J002-77R

The appeal decision for the case at 36 Dorland Street was approved with revisions by Commissioner Lipski incorporated.

B. Proposed Rules and Regulations

The Board discussed revisions to Rules Sections regarding substantial rehabilitation, pre-certification hearings for capital improvements and waiver of the Board's Rules for reasons of hardship or in the interests of justice. Further work on the draft language will continue at the special meeting on July 5th and the regular meeting of July 11th, in preparation for the Public Hearing on July 25th.

C. Appointment of Executive Director

At 8:35 p.m. the Commissioners went into Executive Session pursuant to Government Code Section 54957 to discuss the applications received thusfar for the position of Executive Director and to review possible interview questions for references. The Board went back on the record at 8:57 p.m.

VI. Adjournment

Vice-President How adjourned the meeting at 8:58 p.m.



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#1
7/5/89
Special

NOTICE OF THE SPECIAL MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD, Tuesday, 5:30 p.m.
July 5, 1989

Rent Board Offices, 170 Fell St., rm. 17

AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Communications
- V. Remarks from the Public
- VI. Old Business
 - A. Proposed Amendments to Rules & Regulations
 - B. Appointment of Executive Director--EXECUTIVE SESSION
PURSUANT TO GOVERNMENT CODE SECTION 54957
- VII. Adjournment

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MINUTES OF THE SPECIAL MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Wednesday, July 5,
1989 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

President Astle called the Special Meeting to order at 5:45 p.m.

II. Roll Call

Commissioners Present: Astle; Carrico; Hammill; How;
Marshall; McGoldrick.
Commissioners not Present: Lipski; Soulis; Villa.
Staff Present: O'Hearn.

Commissioner McGoldrick left the meeting when the Board went into
Executive Session at 6:15 p.m. Commissioner Stephenson appeared on the
record at 7:30 p.m.

III. Old Business

A. Proposed Amendments to Rules & Regulations

The Commissioners began discussion of proposed changes to Rules and
Regulations.

IV. Approval of the Minutes

MSC: To approve the Minutes of June 27, 1989 as written.
(Marshall/How: 5-0)

V. Communications

A. The Commissioners received the draft decision for 1450 -
36th Ave., Appeal Nos. J003-12R & J002-11A, which was
approved and signed.

III. Old Business (cont.)

A. Proposed Amendments to Rules & Regulations (cont.)

President Astle distributed draft language for Rules and Regulations
Section 7.14 regarding allowance of interest on capital improvement
costs.

The Director noted the following Regulations for which draft language
has been approved by the Commissioners for public hearing:

Section 2.18	<u>Waiver of Regulations</u>	[6/27/89]
Section 6.11	<u>Comparables</u>	[4/18/89]

Section 7.10(b) Information to Accompany Landlord's Application (for certification of capital improvements, rehabilitation, and/or energy conservation work). [3/30/89]

B. Appointment of Executive Director

The Commissioners discussed the procedure requested by the Mayor's Office with regard to applications received by current Rent Board Commissioners. The Commissioners agreed to treat such applications the same as others so as to conduct the screening process themselves.

V. Communications (cont.)

B. The Commissioners received correspondence from the Director to the landlord of 129 Lower Terrace (J003-17R), as well as correspondence from the landlord to the Commissioners.

III. Old Business (cont.)

B. Appointment of Executive Director (cont.)

The Board went into EXECUTIVE SESSION pursuant to Government Code Section 54957 at 6:15 p.m. to discuss applicants for the position of Executive Director.

The Board also discussed proposed questions to ask the references and the candidates and scheduled Special Meetings on July 21, 1989 at 5:00 p.m. and on July 22, 1989 at 9:00 a.m. for further consideration of particular candidates.

VII. Adjournment

President Astle adjourned the meeting at 8:35 p.m.



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, July 11, 1989
at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

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President Astle called the meeting to order at 5:33 p.m. JUL 11 1989

II. Roll Call

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Commissioners Present: Astle; Hammill; How; Soulis;
Stephenson.
Commissioners not Present: Villa.
Staff Present: Lipski; O'Hearn; Wolf

Commissioners Carrico and McGoldrick appeared on the record at 6:05 p.m.; Commissioner Carrico went off the record at 6:48 p.m. and Commissioner McGoldrick left at 10:55 p.m. Commissioner Marshall arrived at 6:28 p.m., went briefly off the record between 6:40 and 6:48 p.m., and left the meeting at 8:14 p.m. Acting Deputy Director Lipski left the meeting at 8:15 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of July 5, 1989 with the following correction: Roll Call: Commissioner Stephenson appeared on the record at 7:30 p.m. (How/Hammill: 5-0)

The Acting Director noted a clerical correction to page 2 of the Minutes of June 27, 1989, Section VI, to reflect the proper date of July 10th, instead of 11th, on which the Board of Supervisors continued the budget and fee legislation concerning the Rent Board.

IV. Old Business

A. Appointment of Executive Director

The Board went into Executive Session pursuant to Government Code Section 54957 at 5:35 p.m. to discuss interview questions with Dorothy Yee from the Equal Employment Opportunity Unit at the Civil Service Commission. The Board went back on the record at 6:03 p.m.

V. Consideration of Appeals

A. 2280 Pacific Ave. J002-30A (cont. from 6/27/89)

The landlord appeals the hearing officer's decision granting rent reductions due to decreased housing services and deferring rent increases due to the landlord's failure to maintain and repair. On appeal, the landlord alleges that: the hearing officer failed to review

documentation timely submitted; systems deemed to be inadequate by the hearing officer were found to be up to code by the Bureau of Building Inspection; and mail service was not interrupted, despite a notice to repair mailboxes from the Postal Service. In a memorandum to the Commissioners, the hearing officer acknowledged her failure to review certain evidence, through inadvertence.

MSC: To accept the appeal and remand the case to the same hearing officer to consider the documentation timely submitted. (How/Stephenson: 5-0)

B. 150 Haight St. #403 J003-24R

One tenant appeals the hearing officer's decision certifying capital improvement increases, claiming that the approved amount would constitute a financial hardship. In response to the tenant's appeal, the landlord's attorney maintains that as the pass-through is less than 10% of the tenant's base rent, it must be presumed to be reasonable.

MSC: To accept the appeal and schedule a Board hearing on the issue of tenant hardship.
(McGoldrick/Stephenson: 5-0)

C. 2266 Washington St. #9 J002-32A

The tenant was granted a base rent reduction due to leaks from a defective shower door. On appeal, the landlord alleges that the hearing officer granted a reduction for a time period when there were no code violations; and that the problem stemmed from the tenant's failure to adequately clean the bathroom.

MSC: To deny the appeal. (McGoldrick/Stephenson: 5-0)

D. 923 Post Street J002-33A

The tenants were granted rent reductions due to leaks and other decreased housing services. On appeal, the landlord alleges that the hearing officer's Findings are in error; and that the delays in effectuating the repairs were due to difficulties in locating the source of the leaks.

MSC: To deny the appeal. (Stephenson/McGoldrick: 5-0)

E. 920 Guerrero St. J003-25R

The landlord in this case lives on the same property but in a separate building from that occupied by the tenant, and therefore believed he was exempt from Rent Ordinance jurisdiction. The tenant petitioned regarding illegal rent increases and an attempted wrongful eviction; the hearing officer refunded rent overcharges. The tenant appeals the Numerical Correction to the Decision maintaining that it is in error and confusing.

MSC: To deny the appeal, but direct staff to review the correction and possibly provide further explanation. (Carrico/McGoldrick: 5-0)

F. 154 8th Avenue

J003-27R

The tenant appeals the hearing officer's decision certifying a substantial capital improvement pass-through, based primarily on seismic reinforcement work. The tenant alleges that, as certain documents were not in the file, it is unclear whether or not they were part of the hearing officer's review; that some of the work was the result of deferred maintenance; and that the hearing officer's decision is inadequate in several respects.

MSC: To excuse Commissioner Stephenson from consideration of this appeal. (McGoldrick/How: 5-0)

MSC: To remand this case to the same hearing officer to consider the issues raised on appeal. (Marshall/How: 5-0)

G. 1169 Market Street #264

J003-26R

The tenants were granted rent reductions to correspond with various decreased housing services. On appeal, the tenants maintain that the values assigned to elevator service and fire safety were minimal and not equivalent to their importance.

MSC: To deny the appeal, although staff will check to see if technical corrections are necessary. (Carrico/How: 4-1; Stephenson dissenting)

VI. Appeal Hearings

A. 60 Leavenworth Street
#23, 27, 31, 34, 35 & 43

J002-23R through J002-28R

The Board originally heard this case on April 4, 1989. At that time, the landlord appeared with his property manager and five tenants appeared with counsel. Six tenants had appealed the hearing officer's decision certifying capital improvement increases due to substantial renovation of the building. The tenants maintained that the preponderance of the work was done in order to convert the building to transient use, and not to enhance the existing residential tenancies. The tenants had objected to the work prior to its being done.

Following testimony and arguments by the parties, the Board passed a motion disallowing the costs of the work done to the interior of the units but allowing a portion of the common area work. Upon review of the draft decision, the Commissioners discovered that the original hearing officer's decision erred in citing "per room" costs as "per unit" costs. Having relied on the figures in this decision, the Board's motion contained mathematical errors. Therefore, the case was reopened only on the amount of costs to be certified.

At the reopened hearing, the landlord appeared with counsel; the tenants were represented by their attorney. Testimony was limited to suggestions regarding appropriate costs and their allocation. After the hearing concluded, a brief recess was necessitated by an outburst from the landlord. Upon reconvening, the Commissioners made the following motions:

MS: To accept Commissioner Astle's suggested allocation of costs as the Board's decision in this case. (How/Astle)

MSC: To continue this matter to next week's meeting.
(Marshall/Astle: 5-0)

B. 751 Taraval Street J002-22A

This case was originally presented to the Board after a finding of attempted wrongful eviction. Subsequently, the landlord appealed the hearing officer's decision involving illegal rent increases and decreased services. Four improper increases had been given resulting in overpayments of \$11,025.00; and the tenant's assumption of water service payments resulted in a cumulative rent reduction of \$285.00 for decreased services. The Board accepted the case for hearing on the issues of attempted wrongful eviction, landlord hardship and null and void increases.

At the hearing before the Commissioners, the landlord appeared with counsel and witnesses; the tenants were accompanied by their lawyer, an interpreter and witnesses. At the commencement of the hearing, the landlord's attorney informed the Board that the hardship claim was being dropped. Testimony at the hearing therefore centered on the landlord's arguments that determination of rent overpayments was excessive; the landlord's knowledge regarding the tenant's commercial use of the premises; and the landlord's son's reasons for wanting to move into the unit.

After listening to extensive testimony, the Commissioners encouraged the parties to attempt to resolve the matters by settlement. Accordingly, the matter was continued to July 25th at 6:00 p.m. to allow time for resolution.

IV. Old Business (cont.)

B. Proposed Amendments to Rules & Regulations

As the Land Use Committee will be hearing testimony concerning proposed vacancy control legislation on July 25th at 2:00 p.m., the Board decided to postpone their Public Hearing on proposed Rules changes to August 15, 1989.

VII. Communications

The Board received the following communications:

A. A request for postponement of the appeal hearing for 230 Castro Street (J002-31A and J002-23R), originally scheduled to be heard on July 18th at 7:30 p.m., which was granted by the Board.

B. A request for postponement of the appeal consideration for 330 Eureka Street, originally scheduled for July 18th, which was granted by the Commissioners. The tenant's attorney's request to file a late appeal was denied.

c. Draft decisions for the cases at 592 28th Avenue (J003-20R) and 1175 York Avenue (J002-08A), which will be reviewed for next week's meeting.

VIII. Director's Report

Acting Executive Director O'Hearn informed the Commissioners that Joel Lipski has begun work at the Board's offices as Acting Deputy Director; the Rent Board's budget, in conjunction with proposed fee legislation, has been continued to the Board of Supervisors' meeting of July 17th at 2:00 p.m.; and the proposed vacancy control legislation will be heard at the Land Use Committee on July 25, 1989.

IV. Old Business (cont.)

B. Proposed Amendments to Rules & Regulations (cont.)

The Commissioners received a list of proposed changes for which there is approved draft language and those which are still under discussion; a memorandum regarding standards for determining habitability for purposes of substantial rehabilitation; and a new proposed Section 1.16 of the Rules and Regulations.

IX. Calendar Items

July 18, 1989

Old Business:

A. 60 Leavenworth St. (cont. from 7/11/89)

B. Proposed Rules and Regulations Changes

C. Appointment of Executive Director

Eviction Hearing: (post. from 6/20/89)

6:00 2502 3rd Street #1 & 4 I004-98E & J002-10E

Appeal Hearing:

7:00 129 Lower Terrace J003-17R (cont. from 6/27/89)

July 25, 1989

Old Business

A. Recruitment of Executive Director.

B. Proposed Rules and Regulations Changes.

Appeal Hearings:

6:00 751 Taraval J002-22A & J001-89E

(continued from 7/11)

6:30 150 Haight St. #403 J003-24R (accepted 7/11)

IV. Old Business (cont.)

A. Appointment of Executive Director (cont.)

The Board went into Executive Session pursuant to Government Code Section 54957 at 10:55 p.m. to consider applicants for the position.

X. Adjournment

President Astle adjourned the meeting at 11:00 p.m.



NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, 5:30 p.m.

July 18, 1989

State Building, 350 McAllister St. #1158

AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. EXECUTIVE SESSION
PURSUANT TO GOVERNMENT CODE SECTION 54956.9(b)(1)
Possible Litigation
- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions
Hearing

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JUL 18 1989

SAN FRANCISCO
PUBLIC LIBRARY

- 6:00 2502 - 3rd Street #1 & #4 I004-93E & J002-10E
(postponed from 6/20/89)
- IX. Old Business
- A. 60 Leavenworth St. J002-23R through J002-28R
units 23, 27, 31, 34, 35, 43 (cont. from 7/11/89)
- B. Proposed Amendments to Rules & Regulations
- X. New Business
- XI. Appeal Hearing
- 7:00 129 Lower Terrace J003-17R
(postponed from 6/27/89)
- XII. Calendar Items
- VIII. Old Business (cont.)
- 8:00 C. Appointment of Executive Director--EXECUTIVE SESSION
PURSUANT TO GOVERNMENT CODE SECTION 54957
- XIII. Adjournment
- 1783A



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, July 18, 1989 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

President Astle called the meeting to order at 5:41 p.m.

II. Roll Call

Commissioners Present: Astle; How; Marshall; Stephenson; Villa.
Commissioners not Present: McGoldrick; Soulis.
Staff Present: Lipski; O'Hearn; Wicks.

Commissioner Hammill appeared on the record at 5:58 p.m., and Commissioner Carrico appeared at 6:00 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of July 11, 1989, with the following correction on page 3, for the second motion under item F: "To remand this case to the same hearing officer to consider the issues raised on appeal and to determine the reasons for the seismic work."
(How/Marshall: 3-0)

IV. Executive Session

The Board went into Executive Session at 5:45 p.m. pursuant to Government Code Section 54956.9(b)(1) to discuss possible litigation. After discussions with Deputy City Attorney Katherine Pennypacker, the Board came back on the record at 7:05 p.m.

V. Consideration of Allegations of Wrongful Eviction

Hearing

2502 - 3rd Street I004-93E & J002-10E

The landlord appeared with his attorney, and the tenant appeared with his representative, pursuant to a notice of further Board investigation of an alleged wrongful eviction. In April 1988 the landlord gave the two subject tenants notices to vacate for substantial rehabilitation; the other tenants were given notices for nonpayment of rent and/or substantial rehabilitation. Upon completion of the work--which the landlord alleged cost over \$300,000--the landlord rented the units to new tenants at rents considerably higher than paid by the previous residents. The two subject tenants continued to request the right to reoccupy their apartments but were not allowed to do so.

The landlord maintained that he was under no responsibility to allow previous tenants to reoccupy since he had evicted for substantial rehabilitation and had, in fact, expended the required funds. Although he had not applied for substantial rehabilitation certification, the landlord indicated he planned to do so. The evidence presented showed that not all necessary permits had been obtained at the time the termination notices were given. The tenants' representative suggested that the work could not meet the substantial rehabilitation requirements.

After discussing the testimony and evidence, the Board voted as follows:

MSC: To find wrongful evictions and to retain jurisdiction over this matter and determine in the future whether further action is necessary. (Marshall/Hamill: 4-1; Carrico dissenting)

VI. Appeal Hearing

129 Lower Terrace

J003-17R

This matter had originally been set for hearing on June 13, 1989, but was postponed to June 27, 1989, because of the unavailability of one of the landlords. The second hearing was postponed at the request of the tenant, who was similarly unavailable. Shortly before the subject hearing, the tenant called the Staff to indicate that she was unwell and could not attend. She was informed that without a written request for postponement or submission of the previously-requested evidence to substantiate her hardship claim, the Board might dismiss the case. Both landlords appeared at the scheduled time. Before the beginning of the hearing, the Commissioners were informed of the tenant's verbal request for postponement. After discussing the situation, the Board voted as follows:

MSC: To dismiss the case the appeal and affirm the hearing officer's decision. (How/Carrico: 5-0)

VII. Communications

The Board received the following communications:

- A. The draft decisions for the cases at 592-28th Avenue (J003-20R) and 1175 York Avenue (J002-08A), which were approved and signed;
- B. A letter from the landlord of 427 Teresita;
- C. Draft language for Rules and Regulations Section 7.18;
- D. The July-August edition of the Tenant Times.

VIII. Director's Report

A. The Acting Executive Director reported on the status of the Board of Supervisors' consideration of the proposed fee legislation and Rent Board budget, continued to July 24, 1989.

B. Prospective new hearing officers are expected to be hired under contract, and a training session is scheduled for the near future.

IX. Remarks From The Public

A. Al Goodwin voiced his agreement that the Rent Board needs a new office;

B. Michael Harney of the Tenant's Union stated his support for a new office for the Rent Board and expressed his concern that the Commissioners choose an Executive Director who will be fair and progressive.

X. Old Business

A. 60 Leavenworth St. J002-23R through J002-28R
units 23, 27, 31, 34, 35, 43 (cont. from 7/11/89)

Pursuant to their motion of July 11, 1989--to continue discussion of this matter to July 18--the Board reviewed this matter and the recent letter from the landlord's attorney. After discussion, the following motions were passed:

MSC: To table the motion continued at the previous meeting.
(Marshall/Hamill: 4-0; Carrico abstaining)

MSC: To schedule a new hearing before a hearing officer
under the same regulations in effect at the first
hearing, subject to the stipulation of both parties.
(Marshall/Hamill: 5-0)

B. Proposed Amendments to Rules & Regulations

The Board deferred their discussion of Rules and Regulations changes to the July 25, 1989 meeting.

XI. New Business

A. The Commissioners announced that there will no longer be an eviction reconsideration process. This procedure will remain available only to those eviction recommendations mailed on or before July 18, 1989, filed within the time limitations indicated.

B. The City Attorney will be requested to prepare draft language to amend the Rent Ordinance as follows: (1) to establish a time limit for filing writs of mandamus; (2) to permit annual and banked increases exceeding the applicable limit by de minimus amounts; (3) to establish more explicitly a mandatory time period for filing

appeals with provision for extension for good cause; and (4) to omit the requirement that the notice of increase must reflect what portion reflects a banked amount.

XII. Calendar Items

July 21, 1989

SPECIAL MEETING--EXECUTIVE SESSION Pursuant to Government Code
Section 54957: Appointment of Executive Director

July 22, 1989

SPECIAL MEETING--EXECUTIVE SESSION Pursuant to Government Code
Section 54957: Appointment of Executive Director

July 25, 1989

Old Business

- A. Appointment of Executive Director
- B. Proposed Rules and Regulations Changes

Appeal Hearings:

6:00	751 Taraval	J002-22A & J001-89E (continued from 7/11/89)
6:30	150 Haight St. #403	J003-24R (accepted 7/11/89)

XIII. Executive Session

The Board went into Executive Session at 8:47 p.m. pursuant to Government Code Section 54957 to discuss appointment of the Executive Director. The Board came out of Executive Session at 10:07 p.m.

XIV. Adjournment

President Astle adjourned the meeting at 10:10 p.m.



SF
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#1
7/21/89
Special

NOTICE OF THE SPECIAL MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
& ARBITRATION BOARD, Friday, 5:00 p.m.
July 21, 1989

Rent Board Offices, 170 Fell St., rm. 17

AGENDA

- I. Call to Order
- II. Roll Call
- III. Old Business

Appointment of Executive Director--EXECUTIVE SESSION
PURSUANT TO GOVERNMENT CODE SECTION 54957

- IV. Adjournment

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EF
R52
#1
7/22/89
Special

NOTICE OF THE SPECIAL MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD, Saturday, 9:30 a.m.

July 22, 1989

Rent Board Offices, 170 Fell St., rm. 17

AGENDA

- I. Call to Order
- II. Roll Call
- III. Old Business

Appointment of Executive Director--EXECUTIVE SESSION
PURSUANT TO GOVERNMENT CODE SECTION 54957

- IV. Adjournment

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#2 7/25/89

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, July 25, 1989
at 5:30 p.m. at the State Building, 350 McAllister St. #1158

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JUL 27 1989

I. Call to Order

President Astle called the meeting to order t 5:31 p.m. SAN FRANCISCO
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II. Roll Call

Commissioners Present: Astle; Hammill; Soulis; Villa.
Staff Present: O'Hearn; Lipski.

Commissioners How, Marshall, McGoldrick and Stephenson appeared on the
record at 5:35 p.m. Commissioner Carrico appeared at 5:55 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of July 18, 1989 as written.
Hammill/Villa: 4-0)

IV. Communications

The Commissioners received the following letters:

A. A request from the landlord's attorney that the Board take
no action on the tenant's request for reconsideration (No. K001-02R) of
the hearing officer's recommendation on the tenant's eviction report
(No. I004-45E);

B. A request from the landlord's attorney to reschedule the
appeal hearing (No. J002-15A originally scheduled on June 13, 1989)
concerning 470 Collingwood St. #6 because the parties are unable to
come to an agreement;

C. The Director's reply on behalf of the Rent Board to the
landlord's attorney concerning 60 Leavenworth St. (Appeal Nos. J002-23R
through J002-28R); and

D. The Director's reply on behalf of the Rent Board to the
landlord concerning 427 Teresita Blvd.

V. Director's Report

The Acting Executive Director reported on the following matters:

A. The Rent Board fee legislation, and the corresponding
budget, passed the first reading by the Board of Supervisors on July
24th.

B. The Rent Board received a citation on July 24th from CAL/OSHA for two violations - one concerning a minimum of aisle space and one concerning improper stacking of cardboard filing cabinets.

C. The public hearing before the Land Use Committee scheduled on July 25th to consider vacancy control amendments to the Rent Ordinance was cancelled due to the absence of Supervisor Nelder.

VI. Consideration of Allegations of Wrongful Evictions

Hearing (cont'd from 7/11)
751 Taraval St. J001-89E
(consolidated with appeal hearing J002-22A)

The landlord's attorney appeared to request a two-week postponement of this matter so that the parties could continue settlement efforts. The Board granted the request.

VII. Old Business

A. Proposed Amendments to Rules & Regulations

The Commissioners received a revised draft of Sections 4.10 and 4.12 from the Director. They also began discussion of proposed amendments to the capital improvement regulations.

B. Appointment of Executive Director

Pursuant to GOVERNMENT CODE SECTION 54957, the Board went into EXECUTIVE SESSION from 6:15 p.m. until 6:47 p.m. (during which time Commissioner McGoldrick was excused) to discuss the appointment of Executive Director.

VIII. Appeal Hearing

150 Haight St. #403

J003-24R (accepted 7/11/89)

This appeal hearing commenced at 6:55 p.m. Only the tenant appeared; neither the landlord nor his representative appeared. The hearing officer's decision certified capital improvement increases of \$27.91 per month. The Board accepted the tenant's appeal on the issue of financial hardship.

After the conclusion of the tenant's testimony and submission of evidence, the hearing was closed at 7:04 p.m. The Commissioners passed the following motion:

MSC: To stay the capital improvement passthrough for this tenant unless there is a change in his circumstances, but to certify the passthrough for the unit (#403).
(Marshall/McGoldrick: 5-0)

VII. Old Business (cont.)

A. Proposed Amendments to Rules & Regulations (cont.)

During their continued discussion of proposed changes to the Rules and Regulations, the Commissioners passed the following motions:

- MSC: To approve for public comment draft language as modified for Rules & Regulations Section 1.16 concerning the definition of substantial rehabilitation. (Carrico/How: 5-0)
- MSC: To approve for public comment draft language as modified for Part 8 concerning exemption applications for substantial rehabilitation. (Marshall/McGoldrick: 5-0)
- MSC: To approve for public comment draft language as modified for Rules & Regulations Sections 4.10 and 4.12 concerning rent increases not requiring Board approval and banking. (McGoldrick/How: 5-0)
- MSC: To approve for public comment draft language for the two options as previously proposed for Rules & Regulations Section 7.12(d) concerning the 10% annual limit on capital improvement passthroughs. (Carrico/How: 5-0)
- MSC: To approve for public comment draft language for new Rules & Regulations Section 7.18 concerning pre-certification of capital improvement passthroughs. (Marshall/How: 5-0)

The Commissioners also discussed Rules & Regulations Sections 7.12(c) and 7.14 concerning amortization and interest on capital improvements. Commissioner Carrico will bring a new proposal to the next Board meeting.

The Commissioners requested staff to draft proposed amendment to Sections 12.14 and 12.15 concerning the building permit requirements for evictions based on substantial rehabilitation or capital improvement work.

IX. New Business

The Rent Board will participate on the Mayor's Affordable Housing Coordinating Committee.

X. Calendar Items

August 1, 1989

- 5 appeal considerations
- 1 eviction re-consideration

Old Business

- A. Recruitment of Executive Director
- B. Proposed Rules and Regulations Changes

August 8, 1989

4 appeal considerations

Old Business

A. Appointment of Executive Director

B. Proposed Rules and Regulations Changes

Appeal Hearings:

7:00	751 Taraval	J002-22A & J001-89E (continued from 7/11 & 7/25/89)
6:00	230 Castro St.	J003-31A & J003-23R (accepted 6/27/89; continued from 7/18/89)

August 15, 1989

Public Hearing - Proposed Amendments to Rules and Regulations

XI. Adjournment^d

President Astle adjourned the meeting at 8:38 p.m.



NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
& ARBITRATION BOARD, Tuesday, 5:30 p.m.
August 1, 1989

State Building, 350 McAllister St. #1158

AGENDA

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JUL 27 1989

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- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals

A. 330 Eureka St.	J002-34A (cont. from 7/18)
B. 206 Ashton St.	J002-35A
C. 821 & 827 Hampshire St.	K001-01R & K001-03R
D. 4076 - 23rd St.	K001-01A
E. 1300 - 4th Ave.	J003-28R

- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions

Request for Reconsideration

590 - 36th Ave. K001-02R

- IX. Old Business

A. Proposed Amendments to Rules & Regulations
B. Appointment of Executive Director--EXECUTIVE SESSION
PURSUANT TO GOVERNMENT CODE SECTION 54957

- X. New Business
- XI. Calendar Items
- XII. Adjournment

1811A

AUG 8 1989

SAN FRANCISCO
BUILDING DEPARTMENT

SF
R52
#2 8/1/89

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, August 1, 1989 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

President Astle called the meeting to order at 5:31 p.m.

II. Roll Call

Commissioners Present: Astle; Hammill; Soulis; Villa; Stephenson.

Staff Present: Lipski, Cade.

Commissioner How appeared on the record at 5:47 p.m.; Commissioner Carrico appeared on the record at 6:30 p.m.; Commissioner Marshall appeared on the record at 5:38 p.m.; Commissioner McGoldrick appeared on the record at 6:00 p.m.; Commissioner Soulis went off the record at 7:15, and Commissioner Stephenson went off the record at 7:40 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of July 18, 1989 as amended to correct typographical errors. (Hammill/Stephenson: 5-0)

IV. Consideration of Appeals

A. 330 Eureka St. J002-34A (cont.from 7/18)

The landlord appeals the hearing officer's decision granting rent reductions due to decreased housing services. On appeal, the landlord alleges that: the landlord was not given sufficient opportunity to cross-examine tenants' witnesses; one of the two landlord respondents no longer owned the building at the time of the hearing; the tenants acknowledged that the building was in good condition when they signed the lease; and the new owner did not receive proper notice of the hearing.

MSC: To continue the matter for one week and to direct staff to contact the new owner to determine if he had received a copy of the hearing officer's decision and to ask if he planned to file an appeal.
(Hammill/Stephenson: 5-0)

B. 206 Ashton St.

J002-35A

The landlord appeals the hearing officer's decision granting a 15% rent reduction for a decrease in services due to the reduction in the overall size of the tenant's apartment following remodeling work. The landlord, who did not appear at the hearing, alleges that the overall size of the unit was larger following reconstruction, rather than smaller.

MSC: To remand to the same hearing officer on the issue of the 15% reduction in rent for loss of space.
(Marshall/Hammill: 5-0)

C. 821 and 827 Hampshire St. K001-01R & K001-03R

The tenant appeals the hearing officer's decision granting capital improvement passthroughs on the grounds that the landlord failed to file copies of building permits and certificates of completion, and that the decision failed to acknowledge a reduction in the cost of smoke detectors as agreed to by the parties at the hearing.

MSC: To remand to the same hearing officer; specifically on the issue of the agreement between the parties regarding the smoke detector. (How/Hammill: 5-0)

D. 4076 23rd St.

K001-01A

The Commissioners continued consideration of the landlord's appeal for one week because copies of the hearing officer's decision were not included with the documentation provided them prior to the Board meeting.

E. 1300 - 4th Ave.

J003-28R

The tenant appeals the hearing officer's decision granting rent reductions due to a decrease in services, asking for certain technical corrections to the decision.

MSC: To remand for technical corrections. (Marshall/How: 5-0)

V. Communications

The Commissioners received the following communications:

A. A letter from a tenant to President Astle expressing some concerns about possible rent increases on her apartment and a response drafted by staff for President Astle's approval;

B. A letter from the landlord's attorney concerning 60 Leavenworth St. (Appeal Nos. J002-23R through J002-28R) requesting the Board to reconsider the tenants' appeal;

The Commissioners requested staff to contact the attorneys for both parties to determine whether they will stipulate to reconsideration of tenants' appeal.

C. The Appeal Dismissal for 129 Lower Terrace (Appeal No. J003-17R) which was approved and signed; and

D. A flyer distributed by Commissioner Stephenson announcing the Affordable Housing Fair scheduled for August 26th.

VI. Director's Report

The Acting Executive Director reported on the final passage of the Rent Board fee legislation by the Board of Supervisors, and the corresponding budget, July 31st.

VII. Consideration of Allegations of Wrongful Evictions

Request for Reconsideration

590 - 36th Ave.

K001-02R

The tenant requests reconsideration of the hearing officer's finding that the landlord's notice and work plan are appropriate and his recommendation that the Board monitor the landlord's eviction procedure.

MSC: To deny the request for reconsideration.
(Marshall/How: 5-0)

VIII. Old Business

A. Proposed Amendments to Rules & Regulations

The Commissioners received the Notice of Public Hearing and draft language previously approved for public comment regarding Sections 1.16, 2.11, Part 4, Sections 4.10 and 4.12, Part 6, Section 6.11, Part 7, Sections 7.10, 7.12, 7.14 and 7.18, Part 8, Part 12, Section 12.15. During further discussion of proposed changes to the Rules and Regulations, the Commissioners passed the following motions:

MSF: To approve for public comment draft language for Rules and Regulations Section 7.14 concerning the allowance of interest on the cost of certified capital improvements (based on a formula using the prime rate of interest).
(McGoldrick/Marshall: 2-3, Carrico, How, Astle dissenting))

MSC: To approve for public comment draft language for Rules and Regulations Section 7.14 concerning the allowance of interest on the cost of certified capital improvements (based on several alternative formulas using the prime rate of interest).
(Marshall/McGoldrick: 4-1; How dissenting)

MSW: To approve for public comment draft language for Rules and Regulations Section 7.14 concerning the allowance of interest on the cost of certified capital improvements (based on actual interest paid).
(Marshall/McGoldrick: withdrawn)

MSC: To approve for public comment draft language for Rules and Regulations Section 7.12(c) concerning amortization periods including three periods of Seven, Ten and Fifteen years. (Carrico/How: 3-2; Marshall, McGoldrick dissenting)

MSC: To approve for public comment draft language for Rules and Regulations Section 7.12(c) concerning amortization periods including three periods of Seven, Ten and Twenty years. (Marshall/McGoldrick: 3-2, Carrico, How dissenting)

- MSC: To approve for public comment draft language for Rules and Regulations Section 7.12(c) concerning amortization periods including four periods of Five, Seven, Ten and Fifteen years. (Carrico/How: 3-2; Marshall, McGoldrick dissenting)

MSC: To approve for public comment draft language for Rules and Regulations Section 11.24 concerning allowance of interest on rent refunds. (McGoldrick/Marshall: 4-1; How dissenting).

MSC: To approve for public comment draft language for Rules and Regulations Section 6.14(c) concerning written notice of the conditions under which new tenancies are created. (Carrico/How: 5-0)

IX. Calendar Items

August 8, 1989

6 appeal considerations

Old Business

Proposed Rules and Regulations Changes

Appeal Hearings:

7:00	751 Taraval	J002-22A & J001-89E (continued from 7/11 & 7/25/89)
6:00	230 Castro St.	J003-31A & J003-23R (accepted 6/27/89; cont.fr.7/18)

August 15, 1989

Public Hearing - Proposed Amendments to Rules and Regulations

August 22, 1989

5 appeal considerations

Old Business

820 Ashbury St.

J002-01A

(cont.from 5/9/89)

Appeal Hearings:

6:00 470 Collingwood ST #6

J002-15A (cont.from
6/15/89; accepted 5/9/89)

XI. Adjournment

President Astle adjourned the meeting at 8:15 p.m.



NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, 5:30 p.m.

August 8, 1989

State Building, 350 McAllister St. #1158

AGENDA

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AUG 8 1989

SAN FRANCISCO
PUBLIC LIBRARY

I. Call to Order

II. Roll Call

III. Approval of the Minutes

IV. Consideration of Appeals

A. 330 Eureka St.

J002-34A (cont. from 8/1)

B. 4076 23rd St.

k001-01A (cont. from 8/1)

C. 974 Pine St. #6

K001-02A

D. 398 Guerrero St.

K001-04R

E. 365 Connecticut St.

K001-05R

V. Communications

VI. Director's Report

VII. Remarks from the Public

VIII. Consideration of Allegations of Wrongful Evictions

IX. Old Business

A. 60 Leavenworth St.

B. Proposed Amendments to Rules & Regulations

X. New Business

XI. Appeal Hearings

6:00 A. 230 Castro St.

J002-31A & J003-23R

(cont. from 7/18)

7:00 B. 751 Taraval St.

J001-89E & J002-22A

(cont. from 7/11 & 7/25)

XII. Calendar Items

XIII. Adjournment

SF
RS2

#2

8/8/89

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, August 8, 1989
at 5:30 p.m. at the State Building, 350 McAllister St. #1158

DOCUMENTS DEPT.

I. Call to Order

President Astle called the meeting to order at 5:39 p.m. AUG 10 1989
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II. Roll Call

Commissioners Present: Astle; Hamill; Soulis; Stephenson.
Commissioners Absent: Carrico; Marshall; McGoldrick;
Villa.
Staff Present: Cade; Lipski.

Commissioner How appeared on the record at 5:41 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of August
1, 1988. (Stephenson/Hamill: 5-0)

IV. Consideration of Appeals

A. 330 Eureka St. J002-34A
(cont. from 7/18; 8/1)

The landlord appeals the hearing officer's decision granting rent reductions due to decreased housing services. On appeal, the landlord alleges that: the landlord was not given sufficient opportunity to cross-examine tenants' witnesses; one of the two landlord respondents no longer owned the building at the time of the hearing; the tenants acknowledged that the building was in good condition when they signed the lease; and, the new owner did not receive proper notice of the hearing.

MSC: To deny the appeal. (Stephenson/Hamill: 5-0)

B. 4076 - 23rd St. K001-01A (cont. from 8/1)

The landlord appeals the hearing officer's decision refunding overcharges due to past illegal rent increases. The tenants moved into the premises on September 1, 1987. Two improper increases were given on March 1, 1988, and April 1, 1989. On appeal, the landlord argues that the hearing officer's decision (1) deprives the owner of adequate income to support the property, thereby denying him a fair return on his investment; (2) does not take into account the fact that the tenants had contractually agreed to pay these increases; (3) does not offset the improper rent increases against the legally permissible increases; and, (4) will result in hardship

and potential loss of the property.

MSC: To accept the landlord's appeal on the basis of financial hardship only. (How/Hamill: 5-0)

C. 974 Pine St.

K001-02A

The landlord appeals the hearing officer's decision granting the tenant rent reductions due to decreased housing services. The hearing was convened on March 13, 1989. After hearing limited testimony, the landlord requested time to make all the necessary repairs. The landlord was granted 30 days to begin the repairs and the hearing was continued to May 15, 1989. The tenant agreed to withdraw the petition only if repairs and replacements were completed as promised by the landlord. On May 9, 1989, the landlord requested a further continuance. This request was denied. On May 15, 1989, the hearing was reconvened as had been agreed upon. The landlord made no appearance at this meeting. On appeal, the landlord maintains that he did not receive a written summary of the March 13th meeting; the 30-day extension is an error because the hearing officer had granted him a 60-day extension; the decision is inconsistent with the March 13th meeting because the hearing officer did not find a basis for a reduction in services; and, he was never notified that his request for postponement, dated May 4th, had been denied.

MSC: To deny the appeal. (Stephenson/Hamill: 5-0)

D. 398 Guerrero St.

K001-04R

The tenant's petition alleging a substantial decrease in services without a corresponding decrease in rent and failure to do requested repair and maintenance was dismissed with prejudice due to her failure to appear at the properly noticed hearing. On appeal, the tenant contends that she did not receive notice of the hearing until after the hearing date.

MSC: To deny without prejudice to refile.
(Stephenson/Hamill: 5-0)

E. 365 Connecticut St.

K001-05R

The tenants appeal the hearing officer's denial of their petition alleging substantial decreased housing services because the property is exempt and therefore the Rent Board lacked jurisdiction. The decision held that the resident landlords' life estate in the property was sufficient to satisfy the owner-occupancy exemption requirement under the Rent Ordinance. On appeal, the tenants contend that the life estate in question does not reach the level of "fee interest" ownership required by the ordinance and the Rules and Regulations.

MSC: To accept at the board level on the issue raised in the appeal. (Stephenson/Hamill: 4-1; Soulis dissenting)

V. Communications

The Commissioners received the following communications:

A. A letter from the tenants' attorney concerning 330 Eureka St. (Appeal No. J002-34A).

B. A letter from the tenants' attorney concerning 751 Taraval St. (Appeal No. J002-22A) requesting continuance of the appeal hearing for a period of two (2) weeks to provide more time to reach a settlement. The board granted the continuance.

C. A sample of the invitation to the Mayor's reception for the new Executive Director of the Rent Board, Mr. Joseph Grubb.

D. A copy of a newspaper article regarding the prosecution by the City Attorney of a landlord who failed to repair a rental building.

E. A copy of a proposed changes to the Rules and Regulations.

VI. Director's Report

The Acting Executive Director reported on the staffing plans of the Rent Board for the upcoming weeks.

VII. Old Business

60 Leavenworth St. (Appeal Nos. J002-23R through J002-28R):

The Executive Director reported that he had contacted the attorneys for both parties and that said parties had not yet agreed to stipulate to the reconsideration of the tenants' appeal.

VIII. Appeal Hearings

230 Castro St. #2, 4 & 6 J002-31A and J003-23R

This case involves a landlord petition for certification of capital improvements, filed on June 17, 1988. The landlord filed an amended petition on June 27, 1988. A hearing was conducted on July 21, 1988 and a decision issued on August 29, 1988. All three tenants appealed the decision and on October 4, 1988, the appeals were considered and denied by the Board. The tenants filed a petition for a Writ of Administrative Mandamus in San Francisco Superior Court (No. 901184) on January 3, 1989 to set aside the previous decision. The court action was dismissed when the Board remanded the case for hearing to review the issues raised in the appeals.

The landlord and the tenants in unit #6 appealed the Hearing Officer's Decision on Remand issued on May 25, 1989. On June 27, 1989, the Board accepted both appeals on the issues of arithmetical error and improper rent increases raised in the tenant's appeal; and the issue of the permit for copper piping raised in the landlord's appeal.

The appeal hearing commenced at 6:15 p.m. Both parties appeared with their attorneys. After hearing testimony and reviewing the evidence, the hearing closed at 6:55 p.m. The Board Commissioners deferred reaching a decision until August 29th, in order to listen to the tape of the Remand hearing and to further review the documents in the files.

IX. Calendar Items

August 15, 1989

Old Business

60 Leavenworth Street

7:00 Public Hearing - Proposed Amendments to Rules and Regulations

August 22, 1989

5 appeal considerations

Old Business

820 Ashbury St.

J002-01A (cont. from 5/9)

60 Leavenworth St.

J002-23R thru J002-28R

230 Castro St.

J002-31A & J003-23R

Appeal Hearings

6:00 470 Collingwood St. #6

J002-15A (cont. from
6/15/89; accepted 5/9/89)

August 29, 1989

4 appeal considerations

Appeal Hearings

6:00 365 Connecticut St.

K001-05R (accepted 8/8/89)

7:00 751 Taraval St.

J001-89E & J002-22A

(cont. from 7/11; 7/25; 8/8/89)

X. Adjournment

President Astle adjourned the meeting at 7:18 p.m.

1848A



NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, 5:30 p.m.

August 15, 1989

State Building, 350 McAllister St. #1158

AGENDA

DOCUMENTS DEPT.

AUG 15 1989

SAN FRANCISCO
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- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Communications
- V. Director's Report
- VI. Remarks from the Public
- VII. Old Business
 - A. 60 Leavenworth St.
- VIII. New Business
- IX. Public Hearing
- 7:00 Proposed Amendments to Rules and Regulations
- X. Calendar Items
- XI. Adjournment

1847A



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, August 15,
1989 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

President Astle called the meeting to order at 5:30 p.m. For lack of a quorum, the meeting was recessed until the Public Hearing, noticed for 7:00 p.m.

II. Call to Order

DOCUMENTS DEPT.

President Astle reconvened the meeting at 7:04 p.m.

AUG 18 1989

II. Roll Call

SAN FRANCISCO
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Commissioners Present:	Astle; Carrico; Hammill;
Commissioners not Present:	McGoldrick; Soulis; Stephenson.
Staff Present:	Marshall.
	Grubb; Wicks.

Commissioners How and Villa appeared on the record at 7:06 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of August 8, 1989, as written.
(Stephenson/Hammill: 4-0)

IV. Communications

The Board received the following communications:

A. The draft decision for 150 Haight St. #403, which was approved and signed;

B. A letter from a tenant expressing concern about her impending rent increase;

C. A statement signed by 41 tenants at various addresses, stating their support for retention of the 10% cap on capital improvement pass-throughs;

D. A request by the tenant for a postponement of the Board appeal hearing concerning 4076-23rd Street. The request was granted pending agreement by the other side;

E. A copy of the final wording of the Rent Board fee legislation, approved on August 2, 1989.

V. Old Business

The Commissioners discussed the matter concerning 60 Leavenworth St. (Appeal Nos. J002-23R through J002-28R). It was the consensus of the Board to allow only one more week for the parties to reach agreement on a stipulation to the reconsideration of the tenants' appeal.

VI. Public Hearing

The Public Hearing regarding proposed changes to the Rules and Regulations commenced at 7:12 p.m. and ended at 8:34 p.m. Twenty-one individuals--landlords and tenants, some representing organizations--signed up to testify. Seventeen persons actually testified before the Commissioners. Subject areas included: allowance of interest for capital improvements, amortization periods for capital improvements, the cap on capital improvement pass-throughs, substantial rehabilitation, pre-certification of capital improvements, comparables, exception to the null and void rent increase provision, and interest on excessive rent refunds.

The majority of the participants discussed capital improvement issues, specifically the current cap on improvement pass-throughs, lengthening amortization periods, and allowance/disallowance of interest on capital improvement costs. The landlords expressed concern that further restrictions in capital improvement pass-throughs would make it financially unwise or impossible for owners to keep their property in good condition. On the other hand, tenant speakers expressed their concerns that they and other tenants would be forced to vacate if there were not limitations placed on the amount of capital improvement increases allowed. The record was left open for two weeks for additional written comments.

VI. Calendar Items

August 22, 1989

6 appeal considerations

Old Business

230 Castro St. [J002-31A and J002-23R]

60 Leavenworth St. [J002-23R through J002-28R]

720 Ashbury St. [J001-01A]

Proposed Rules & Regulations changes: fees

Appeal Hearings

6:00- 470 Collingwood St. #6 [J002-15A]

August 29, 1989

4 appeal considerations

Appeal Hearings

6:00- 365 Connecticut St. [K001-05R]

7:00- 751 Taraval St. [J001-89E & J002-22A]

VII. Executive Session

The Commissioners went into Executive Session at 8:45 p.m., pursuant to Government Code Section 54957, to discuss personnel issues. They came back on the record at 8:54 p.m.

VIII. Adjournment

President Astle adjourned the meeting at 8:55 p.m.
1858A



NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, 5:30 p.m.

AUGUST 22, 1989

State Building, 350 McAllister St. #1158

AGENDA

I. Call to Order

II. Roll Call

III. Approval of the Minutes

IV. Consideration of Appeals

A.	899 Pine Street	K001-04A
B.	952 Sutter St. #4, 302, 602	K001-06R, 08R and 09R
C.	1369 Hyde Street	K001-05A
D.	561 Baker St. #7	K001-06A
E.	3943 Army St.	K001-07R
F.	730 Washington St.	K001-07A

V. Communications

VI. Director's Report

VII. Remarks from the Public

VIII. Consideration of Allegations of Wrongful Evictions

IX. Old Business

A.	230 Castro St.	J002-31A & J003-23R (cont. from 8/8/89)
B.	60 Leavenworth St.	J002-23R thru J002-28R (cont. from 7/11/89)
C.	720 Ashbury St.	J001-01A (cont. from 5/9/89)
D.	Proposed Rules and Regulations	changes: fees

X. New Business

XI. Appeal Hearing

6:00	470 Collingwood St. #6	J002-15A (accepted 5/9/89 and continued from 6/13/89)
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XII. Calendar Items

XIII. Adjournment

1865A

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AUG 18 1989

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R52
#2 8/22/89

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, August 22,
1989 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

DOCUMENTS DEPT.

AUG 28 1989

SAN FRANCISCO
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President Astle called the meeting to order at 5:40 PM.

II. Roll Call

Commissioners Present: Astle, Hammill, How, Soulis,
Stephenson, Villa
Commissioners not Present: Carrico
Staff Present: Grubb, Wicks

Commissioner McGoldrick appeared on the record at 5:53 PM, and
Commissioner Marshall appeared at 5:46 PM. Commissioners McGoldrick
and Marshall went off the record at 6:32 PM and appeared on the record
at 6:35 PM.

III. Approval of the Minutes

MSC: To approve the Minutes of August 15, 1989, as written.
To correct the Minutes of August 8, 1989, to reflect a
date of August 22, 1989 for further Board review of 230
Castro St. #2, 4, & 6 [J002-31A and J003-23R].
(Stephenson/How: 5-0)

IV. Consideration of Appeals

A. 899 Pine St. K001-04A

The landlord appealed the hearing officer's decision granting rent
reductions for several tenants because of problems in the building with
plumbing, heating, and ventilation. On appeal the landlord objected to
granting reductions for periods before the tenants informed him of the
problems; he further noted that repairs and improvements were made soon
after receiving this information.

MSC: To excuse Commissioner McGoldrick from this
consideration. (How/Stephenson: 5-0)

MSC: To uphold the hearing officer and deny the appeal.
(Stephenson/Hammill: 5-0)

B. 952 Sutter St. K001-06R, 08R, 09R
#4, 302, 602

Three tenants appealed the hearing officer's determination allowing
general rent reductions for decreases in the quality of heating,

ventilation, and water shut-off, as well as other reductions for individual problems. Two tenants appealed the amount of rent reduction for conversion from steam to electrical heat; the third also protested the hearing officer's failure to reduce rent on several issues raised.

MSC: To remand the case to the same hearing officer to address issues raised on appeal.
(Marshall/McGoldrick: 5-0)

C. 1369 Hyde St.

K001-05A

The landlord appealed the determination of the hearing officer granting a 5% rent reduction to 31 tenants for loss of access to a roof sundeck, used for recreational purposes by existing tenants and as a selling point for new tenants. Other tenants of the property had previously been granted 5% reductions for this issue, pursuant to a Board appeal decision. On appeal the landlord argued that the roof area had never been expressly provided for tenant use and was unsafe for such, that unapproved use did not constitute a service, and that the curtailment of access resulted from a demand made by the landlord's insurance company.

MSC: To excuse Commissioner Stephenson from this consideration. (Marshall/McGoldrick: 5-0)

MSC: To uphold the hearing officer and deny the appeal.
(Marshall/McGoldrick: 4-1; Soulis dissenting)

D. 561 Baker St. #7

K001-06A

The landlord appealed following the hearing officer's decision granting a rent reduction for the tenants' loss of full use of their apartment because of severe leaks and falling plaster. He stated that he had not received notice of the hearing since it was sent to a previous address.

MSC: To remand the case for a new hearing.
(How/McGoldrick: 5-0)

E. 3943 Army St.

K001-07R

The tenants appealed the ruling that they had not proved a substantial decrease in services because of an electrical system that initially proved inadequate to support their computer system. The landlord had upgraded the electrical capabilities after tenant complaints, and the tenants had also deducted \$400.00 as compensation for the problem. The hearing officer found that the tenants had provided their own remedy for the time period before the owner resolved the problem. On appeal the tenants challenged many aspects of the written decision, and they disagree that the electrical insufficiency has been resolved.

MSC: To uphold the hearing officer and deny the appeal.
(Soulis/How: 5-0)

F. 730 Washington St.

K001-07A

The hearing officer determined that the petitioner in this case was an approved tenant. The subject property--also occupied by his 1875A

mother--was his only residence for fifteen years, and the landlord knew of the tenant's occupancy between assignments as a merchant seaman. Further, it was shown that he had contributed to his family's rental payment for many years and had been in full-time occupancy since 1984. Accordingly, a rent increase of nearly 70%--imposed upon the removal of the tenant's mother to a rest home--was ruled null and void. On appeal the landlord insists that the subject occupant was never an approved tenant and is merely a guest or squatter.

MSC: To uphold the hearing officer and deny the appeal.
(Marshall/McGoldrick: 5-0)

V. Communications

The Commissioners received the following communications:

A. Four letters from members of the public concerning topics discussed at the August 15, 1989 Public Hearing;

B. Appeal responses for the cases concerning 952 Sutter St., 3943 Army St., and 1369 Hyde St.;

C. A memo regarding McHugh v. Santa Monica Rent Control Board;

D. Requests for postponement of appeal considerations concerning 388 Fifth Street and 401-45th Avenue, which were granted;

E. A request for a continuation of the appeal hearing for 470 Collingwood St. #6, scheduled for August 22, 1989, to allow the parties time to complete settlement efforts. The request was granted;

F. A letter from Executive Director Joe Grubb thanking Joel Lipski for his efforts as Acting Deputy Director and Acting Executive Director;

G. A letter from Executive Director Grubb thanking Commissioner Hammill for the gavels presented to the Board;

H. An invitation from Rent Board Staff member Carmen Herrera, inviting them to her swearing-in as a Commissioner on the Commission on the Status of Women;

I. A budget report from the Board Of Supervisors regarding Supervisor Kennedy's request for information concerning the financial impact of rent control, vacancy control and affordable housing;

J. A memo from the Deputy Director requesting comp time compensation approval. The Board voted as follows:

MSC: To approve the request for compensatory time.
(Marshall/How: 5-0)

K. A request from the Acting Deputy Director for information on the two Special Meetings held in Executive Session for interviewing candidates for the position of Executive Director. The information is as follows:

July 21, 1989

Call to Order: 5:00 PM Adjournment: 8:00 PM
Commissioners Present: Astle, Carrico, Hammill, How, Marshall,
Stephenson, Villa;
Commissioners Not Present: McGoldrick, Soulis.
Commissioners Astle and Marshall went off the record at 7:30 PM.

July 22, 1989

Call to Order: 9:30 PM. Adjournment: 2:30 PM.
Commissioners Present: Astle, Carrico, Hammill, How, Marshall,
Stephenson, Villa.
Commissioners Not Present: McGoldrick, Soulis

VI. Director's Report

A. Executive Director Grubb discussed the staff's handling of inquiries regarding McHugh;

B. The Director informed the Commissioners of progress made in looking for a new location for the Rent Board office;

C. Mr. Grubb reminded the Board of the Affordable Housing Fair to be held August 26, 1989;

D. The Director informed the Board that staff member Alicia Wicks will be Acting Deputy Director during Ms. O'Hearn's leave, and that Pedro Ruiz will temporarily assume the Eviction Unit Supervisor position.

VII. Remarks from the Public

Al Goodwin mentioned the booth at the Affordable Housing Fair to be managed by the Apartment House Owner's Association.

VIII. Old Business

A. 230 Castro St. (J002-31A & J003-23R, continued from August 8, 1989). After discussing the evidence and testimony presented in the case, the Board voted as follows:

MSC: To find that all annual rent increases are null and void, with the exception of the increase of November 1987, which shall be recomputed on the corrected base rent. (How/Stephenson: 5-0)

MSC: To deny capital improvement certification for plumbing work for failure of proof as to what work was done and which units benefited. (Stephenson/Hammill: 5-0)

B. 60 Leavenworth St. (J002-23R through J002-28R, continued from July 11, 1989). The Commissioners were informed that both sides had stipulated to a reconsideration of the matter. Notice will be sent for September 5, 1989.

C. 807 Ashbury St. (J002-01A, continued from May 9, 1989). After discussing the testimony and evidence submitted in this matter, the Board voted as follows:

MSC: TO find no landlord hardship based on fair rate of return. However in the interest of fairness and justice, and given the unusual circumstances of this matter, an all-inclusive comparables increase of \$264.33 per month shall be allowed for the one-bedroom units (plus \$10.67 for certified capital improvements) and \$314.33 per month (plus \$10.67 for capital improvements) for two-bedroom apartments.
(How/Soulis: 5-0)

D. Rules and Regulations Proposed Changes: At their next meeting, the Commissioners will discuss the proposed changes that were the subject of the Public Hearing at the meeting of July 29, 1989. Rules changes for deletion of filing fees, and Notice of the Public Hearing to discuss these changes, will be prepared by the staff.

IX. Appeal Hearing

The hearing for 470 Collingwood St. #6 (J002-15A) scheduled for 6:00 PM was postponed at the request of counsel, since the parties have reached a settlement, which is currently being signed.

X. Calendar Items

August 29, 1989

3 appeal considerations

Appeal Hearings

6:00- 365 Connecticut St.

[K001-05R, accpt. 8/8/89]

7:00- 751 Taraval St.

[J001-89E & J002-22A, accpt. 6/27
and contd. from 8/8/89]

Old Business

Proposed Rules & Regulations Changes

September 5, 1989

6 appeal considerations

Old Business

Proposed Rules and Regulations Changes

XI. EXECUTIVE SESSION

The Commissioners went into Executive Session at 7:22 PM to discuss personnel items, pursuant to Government Code Section 54957. The Board came back on the record at 7:37 PM.

XII. Adjournment

President Astle adjourned the meeting at 7:38 PM.



NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, 5:30 p.m.

August 29, 1989

State Building, 350 McAllister St. #1158

AGENDA

I. Call to Order

DOCUMENTS DEPT.

II. Roll Call

AUG 28 1989

III. Approval of the Minutes

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IV. Consideration of Appeals

- A. 225A, 227B, 229B and
231A Pierce Street
- B. 2045 Cabrillo #12

K001-08A and
K001-11R through K001-15R
K001-09A

V. Communications

VI. Director's Report

VII. Remarks from the Public

VIII. Consideration of Allegations of Wrongful Evictions

IX. Old Business

Proposed Rules and Regulations changes

X. New Business

XI. Appeal Hearing

6:00 365 Connecticut St.
7:00 751 Taraval St.

K001-05R (accept. 8/8/89)
J001-89E & J002-22A
(accept 6/27/89 and cont.
from 8/8/89)

XII. Calendar Items

XIII. Adjournment

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, August 29,
1989 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

President Astle called the meeting to order at 5:40 p.m.

II. Roll Call

Commissioners Present: Astle, How, Lipski, Marshall,
McGoldrick, Stephenson, Soulis
Commissioners not Present: Hammill, Villa
Staff Present: Grubb, Ruiz

Commissioner Carrico appeared on the record at 6:25 p.m. Commissioner
Soulis went off the record at 7:42 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of August 29, 1989, with the
following correction on page 5, on the motion under
Item C: "....an all-inclusive comparables increase to
\$264.33 per month.....". (Marshall/McGoldrick: 5-0)

IV. Consideration of Appeals:

A. 225A, 227B, 229A, 229B and K001-08A and
231A Pierce Street K001-11R through K001-15R

The landlord and five tenants appealed the hearing officer's decision
in this case. On December 16, 1988, the landlords filed a petition for
arbitration to obtain Board certification of substantial rehabilitation
in order to exempt all units from the San Francisco Rent Ordinance.
Alternately, the landlord's petition sought authorization for rent
increases for the above-mentioned units on the basis of capital
improvements.

The landlord appealed the hearing officer's determination that the
subject property has not been substantially rehabilitated within the
meaning and provisions of the Rent Ordinance and the Rules and
Regulations. He also objected to the disallowal of certain costs of
capital improvements. On appeal, the landlord argues that he had met
all the necessary qualifications for substantial rehabilitation and
also contested the hearing officer's assessment of individual expenses.

On appeal, the tenants argue that the 10% cap on capital improvement
pass throughs should be in effect for this case; that the tenants
should not have to pay for improvements to a portion of the building
for which they have no use or access because it is being rented to
non-tenants; and, on the basis of financial hardship.

MSC: To excuse Commissioner Stephenson from this consideration.
(McGoldrick/Marshall: 5-0)

MSC: To deny the landlord's appeal. (Marshall/McGoldrick: 3-2;
How and Soulis dissenting)

MSC: To accept the tenants' appeal on the basis of hardship only
and to deny the rest of the appeal. (How/Soulis: 5-0)

B. 2045 Cabrillo Street #12

K001-09A

The landlord appealed the hearing officer's decision granting a rent reduction for substantial decreases in housing services. On appeal, the landlord objected he did not receive notification of the hearing.

MSC: To accept the appeal and remand to a hearing officer
assigned by the Rent Board staff. (How/McGoldrick: 5-0)

V. Communications

The Commissioners received the following communications:

A. A letter from Samoa Mo Samoa, Inc., a non-profit organization, extending an invitation to the Rent Board staff, to an Open House on September 13, 1989;

B. A letter from the San Francisco Tenants Union with attached official comments of the Union to the proposed Rules and Regulations;

C. A letter from Joseph A. Sacramento, Esq., regarding 60 Leavenworth Street (J002-23R through J002-28R, continued from July 11, 1989), and a copy of the stipulation by both parties to a reconsideration of this matter;

D. A letter from Mary Nichols, the landlord for 2630 - 22nd Street (K001-10A, J006-82T), regarding her appeal consideration scheduled for September 5, 1989;

E. A letter of congratulations to Ms. Carmen Herrera, newly appointed Commissioner to the Commission on the Status of Women, on behalf of the Rent Board Commissioners and the Director;

F. A newspaper article dated August 15, 1989, from the San Francisco Daily Journal, reporting that the Santa Monica Rent Control Board had been found in contempt of court;

G. A letter from David Prowler, Assistant to the Chief Administrative Officer, regarding the identified elements which could become parts of an unreinforced masonry building ordinance. Commissioner Marshall suggested that we formally notify that office of any changes to the definition of substantial rehabilitation in the Rules and Regulations once they are in place. She has advised him that there are pending changes now under consideration;
1885A

H. A letter from Vincent Herrman, requesting clarification of the decision of the appeal hearing for 150 Haight St. #403 (J003-24R) heard on July 25, 1989. The Commissioners directed the staff to send a supplement to the decision stating the Rent Board's policy for ordering the refund of rent overpayments;

I. A letter from Roy Langford regarding the proposed changes to Section 6.11(a) - Comparables - of the Rules and Regulations;

J. A letter from Richard Hack regarding the proposed changes to Section 6.11(a) - Comparables - of the Rules and Regulations.

VI. Director's Report

A. Commissioner Lipski was officially reinstated to the Rent Board Commission per letter from the Mayor, dated July 12, 1989. His service to the department was recognized and appreciated.

B. Mr. Grubb reported on the development of the pictures taken at the reception in his honor given by the Mayor and the Rent Board Commissioners.

C. The Director informed the Commissioners that a public hearing would be held on September 19, 1989, to discuss the proposed changes to the Rules and Regulations regarding fees.

D. The Director informed the Commissioners that their checks and those for the Hearing Officers would be delayed due to a new index code number assigned by the Payroll Division.

E. The Director informed the Board on the status of his search for office space.

VI. Remarks from the Public

The Commissioners answered a question from a member of the audience regarding the proposed changes to the section on payments of fees in the Rules and Regulations.

VII. Old Business

Proposed Amendments to Rules and Regulations: Reference is made to draft language previously approved for public comment regarding Sections 1.16, 2.11; Part 4, Sections 4.10 and 4.12; Part 6, Section 6.11; Part 7, Sections 7.10, 7.12, 7.14 and 7.18; Part 8; Part 12, Section 12.15. During further discussion of proposed changes to the Rules and Regulations, the Commissioners passed the following motions:

A. Section 7.12(d):

MSF: Except in extraordinary circumstances, to be determined by the Board on appeal, no increase under this subsection shall exceed, in a twelve-month period, ten (10%) of the tenant's base rent or \$50.00, whichever is greater...." (Carrico/How: 3-2; How and Soulis dissenting)

- MSC: Except in extraordinary circumstances, to be determined by the Board on appeal, no increase under this subsection shall exceed, in a twelve-month period, ten (10%) of the tenant's base rent or \$30.00, whichever is greater...."
[To become effective on September 15, 1989.]
(Marshall/McGoldrick: 5-0)
- B. MSC: To amend Section 2.18 concerning waiver of regulations, as proposed. (Carrico/Marshall: 5-0)
- C. MSC: To amend Section 4.12(a) concerning banking, as proposed. (Carrico/Marshall: 5-0)
- D. MSC: To amend Section 4.10(b) concerning null and void increases, as proposed. (Marshall/How: 5-0)
- E. MSC: To amend Section 6.14(c), concerning agreements to pay additional rent for change of tenants, as proposed. (Carrico/Marshall: 5-0)
- F. MSC: To amend Section 6.11(a), (b), and (c), concerning comparables, as adopted. (Carrico/How: 5-0)
- G. Section 1.16 (Page 1, Lines 3 to 16)
- MSC: To adopt the proposed changes, with the following correction: "Substantial rehabilitation" means the renovation, alteration or remodeling of a building containing essentially uninhabitable residential rental units of 50 or more years of age ((which have been condemned, or))....."
(Carrico/Marshall: 5-0)
- H. MSC: To amend Section 12.15(a) and (b), concerning capital improvement evictions, as proposed.
(Carrico/Marshall: 5-0)
- MSC: Improvements will not be deemed substantial unless the cost of the work equals or exceeds seventy-five percent (75%) of the cost of newly constructed residential buildings of the same number of units and type of construction, excluding land costs and architectural/engineering fees. The determination of this estimated cost shall be based upon construction cost data reported by Marshall and Swift, Valuation Engineers, as adapted for San Francisco and posted in January and June of each year in the Bureau of Building Inspection for purposes of determining permit fees. The schedule posted nearest in time to the date of the Notice of Completion of the improvements shall apply.

VIII. New Business

The Commissioners directed the staff to design forms to provide landlords and tenants with information that will assist them in the

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wording of written agreements to pay additional rent for change of tenants per Section 6.14(c) of the Rules and Regulations.

IX. Appeal Hearing

A. 365 Connecticut St.

K001-05R (accept. 8/8/89)

The tenants appealed the hearing officer's denial of their petition alleging substantial decreased housing services because the property is exempt and therefore the Rent Board lacked jurisdiction. The decision held that the resident landlords' life estate in the property was sufficient to satisfy the owner-occupancy exemption requirement under the Rent Ordinance. On appeal, the tenants contended that the life estate in question does not reach the level of "fee interest" ownership required by the Rent Ordinance and the Rules and Regulations. On August 8, 1989, the Board accepted this case to hear the issue raised in the appeal.

This appeal hearing commenced at 6:15 p.m. At the hearing landlords Dino J. Landucci, Anna Landucci, and Janet Plantier appeared with counsel, Joseph K. Bravo. Tenants Katherine Lambert and Christine Robbins appeared and were represented by their attorney, Michael Rossoff. After hearing testimony from both parties, the Commissioners made the following motion:

MS: To reverse the Hearing Officer's decision; to find jurisdiction; and, to remand to a new hearing officer. (Marshall/Soulis)

MSC: To put the case over for a week in order for the Rent Board staff to seek advice from the City Attorney's Office regarding the interpretation of the legislature's intent in this area. (How/Soulis: 5-0)

B. 751 Taraval St.

J001-89E & J002-22

(accept. 6/27; cont. from 8/8/89)

Prior to the scheduled time for the hearing, counsel for the landlord requested a postponement of one week because his clients have agreed to a stipulation, but he has not received a signed copy. The Commissioners granted this request and staff was directed to send notices to all parties. At the regularly scheduled time for this hearing, the tenants appeared and informed the Commissioners that they had received a proposed settlement, that no one had notified them of the hearing, and that they needed additional time to seek a second opinion from another attorney. The Commissioners informed the tenants that the case had been continued until September 5, 1989.

X. Calendar Items

September 5, 1989

6 appeal considerations

Appeal Hearing

6:00- 751 Taraval St.

J001-89E & J002-22A

(accept. 6/27/89; cont. from 8/29/89)

Old Business:

Proposed Rules and Regulations

365 Connecticut St. K001-05R (accept. 8/8/89; cont. 8/29/89)

September 12, 1989

7 appeal considerations

Appeal Hearing:

6:00-

4076 - 23rd St.

K001-01A (post. from 8/22/89)

September 19, 1989

5 appeal considerations

Closed Session:

Park Merced Residents Organization v. Rent Board

Public Hearing:

Rules Changes for Deletion of Filing Fees

XI. Adjournment

President Astle adjourned the meeting at 8:31 p.m.

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RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD

SEPTEMBER 12, 1989

THE MINUTES FOR THIS MEETING ARE MISSING

SEP 28 1989

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, September 19,
1989 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

President Astle called the meeting to order at 5:35 p.m.

II. Roll Call

Commissioners Present: Astle; How; Lipski; Stephenson;
Villa.
Commissioners not Present: Hammill; Marshall; Soulis.
Staff Present: Grubb; Wolf.

Commissioner McGoldrick appeared on the record at 5:39 p.m.;

Commissioner Carrico appeared at 5:45 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of September 12, 1989, with the
following corrections: page 2 is incorrectly numbered
as page 1, and all subsequent pages follow suit; the
vote on the motion regarding the case at 2048 Polk
Street was 4-1 and not 4-0; and the motion regarding
the case at 388 5th Street was made and seconded, but
not carried (MS instead of MSC). (How/Stephenson: 5-0)

IV. Executive Session

At 5:42 p.m. the Commissioners went into Executive Session pursuant to
Government Code Section 54956.9(a) to discuss pending litigation
regarding Parkmerced. The Board went back on the record at 6:44 p.m.
and made the following motion:

MSC: To reinstate the Amended Decision on Appeal on Remand
from Superior Court in Response to the Peremptory Writ issued October
7, 1985 Superior Court Court No. 837626, issued on November 6, 1985, in
consolidated Case Nos. El06-5P, El08-7P, El08-13P, El08-14P, El08-15P,
El16-16P, El08-17P, El16-18P, Appeal Case No. F22-3A.
(Carrico/McGoldrick: 5-0)

V. Appeal Hearing

The case at 751 Taraval (J001-89E and J002-22A), originally scheduled
to be heard at 6:00 p.m., has been settled and taken off calendar.

VI. Public Hearing

A Public Hearing was scheduled for 6:20 p.m. on proposed amendments to the Rules and Regulations regarding filing fees and record of proceedings. No members of the public, however, wished to speak.

VII. Consideration of Appeals

A. 990 Fulton Street #206 K001-24R

One tenant appeals the hearing officer's decision certifying capital improvement pass-throughs for 18 units in a 35-unit building. The tenant believes that not imposing the increase on all units in the building is discriminatory and that it is unfair that previous tenants residing in the building benefitted from the work but didn't have to pay for it.

MSC: To uphold the hearing officer and deny the appeal.
(How/Carrico: 5-0)

B. 16 Laguna Street K001-26R through K001-39R

The tenants in fourteen units appeal the hearing officer's decision certifying capital improvement increases for substantial work done over the past 8 years. The tenants maintain that certain items were luxury items unrelated to health, safety or excessive maintenance; that other items did not benefit the tenants; and that the replacement of the boiler constitutes an operating expense and not a capital improvement.

MSC: To excuse Commissioner Stephenson from consideration of this appeal. (How/Carrico: 5-0)

MSC: To remand this case to the same hearing officer on the issue of the reasonableness of the guard rail costs.
(Carrico/How: 5-0)

C. 4130 Army St. #60 K01-16A

The tenant was granted rent reductions due to the lack of housing services that the hearing officer found to have been reasonably expected under the circumstances. On appeal, the landlord alleges that: the Board only has the authority to reduce rents where services have been reduced from a previous higher level; that the tenant could have mitigated the damages by filing an insurance claim; and that the rent reductions are excessive.

MSC: To deny the appeal. (McGoldrick/Stephenson: 5-0)

VIII. Old Business

A. 508 Scott St. #4 J002-74C

Staff has written the parties informing them that they must file an appeal in this matter.

B. 388 5th Street

K001-10R (cont. from 9/12)

The Board received a letter from the landlord's attorney requesting further postponement of consideration of this appeal. After discussion, the Commissioners agreed to postpone the case for one additional week.

C. 401 45th Avenue

K001-16R (cont. from 9/12)

The tenants appealed the hearing officer's decision on remand pursuant to the landlord's appeal granting certification of a rent increase for capital improvements. A hearing was held on January 5, 1989. The decision dated March 9, 1989 granted a capital improvement pass-through and found that the rent had been raised above the allowable increase. On March 24, 1989 the landlords appealed the decision alleging that they had inadvertently mis-stated the tenants' rent history and therefore, the rent overpayments were based on incorrect figures. The landlords' appeal was considered by the Rent Board on April 25, 1989, and accepted; the case was remanded "for a new hearing to establish the correct base rent and clarify the rent increase history."

On appeal, the tenants object to the hearing officer's decision (1) retroactively imposing a capital improvement passthrough effective March 9, 1989, because they were never given proper written notice; and (2) because the decision fails to declare null and void a rent increase slightly in excess of the allowable increase under the Rent Ordinance.

The case had been continued in order for the Board to seek advice from the City Attorney.

MSC: To deny the appeal. (How/Carrico: 5-0)

IX. Communications

The Board received the following communications:

A. A letter from the landlord's attorney in the case at 470 Collingwood #6 indicating that the matter has been settled. It has therefore been taken off calendar.

B. A letter from the landlord's attorney in the case at 126 Shotwell Street requesting that the appeal consideration scheduled for next week be postponed. This request will be taken up at next week's meeting.

C. A letter from the Executive Director congratulating Anne Boulaine on her appointment as Municipal Court Judge.

D. A Memorandum from staff regarding the amended Rules and Regulations.

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X. Director's Report

Executive Director Grubb reported on the following:

A. The Real Estate Department has sent a Letter of Intent to lease office space for the Board at 25 Van Ness. The remaining problems do not appear to be insurmountable; a move-in date of December 1, 1989 is projected.

B. Staff will work on a job description for the position of full-time hearing officers.

C. Proposed vacancy control legislation is scheduled to go before the Land Use Committee of the Board of Supervisors on September 28, 1989 at 1:00 p.m.

D. The photos from the Swearing-In of the new Director are now available.

E. Commissioner Marshall gave birth to a baby boy over the weekend - all extend their congratulations.

XI. Considerations of Allegations of Wrongful Evictions

Report from Staff

A. 169A Ellsworth Street #A J002-52E

The tenant has resided in this unit since January 1987 without having paid any rental deposits. The new owner acquired the property on October 31, 1988 and shortly thereafter demanded deposits and rental increases from all tenants. A series of harassing actions resulted in many tenants vacating the building: tenants' "agreements" to move were drafted by the landlord and signed under coercion; the water was shut off; and the landlord mis-represented the status of Rent Board actions to the tenants. The landlord was attempting to sell the building soon after acquiring it and indicated that he had done so as of the date of the hearing.

EVALUATION: No valid eviction notices have been served on the tenant nor filed with the Rent Board. A pattern of harassment has resulted in the constructive eviction of several tenants.

RECOMMENDATION: For staff to further investigate to see if any further action has been taken against this tenant; to write the landlord immediately, indicating that any further attempts to evict will result in a referral to the District Attorney.

MSC: To accept staff's recommendations and vigorously investigate this matter. (McGoldrick/Carrico: 5-0)

B. 656 Spruce St. #A J003-08E

The tenant made several complaints to the landlord and City inspectors regarding habitability problems in the unit. Shortly thereafter, the 1922A

tenant received a 3-Day Notice to Vacate based on his being an alleged nuisance; he later received a notice to vacate based on repairs. The landlord refused to pay moving expenses because the inspection by the Department of Public Works had been initiated by the tenant. The tenant has since vacated the premises.

EVALUATION: All notices to vacate are defective and the landlord has failed to comply with any of the requirements of the Ordinance. The only possible basis for this eviction appears to be for non-payment of rent, which the landlord did not pursue.

RECOMMENDATION: To immediately send the landlord a strong letter informing her of the illegality of her actions and that the Rent Board will monitor future actions undertaken by her.

MSC: To accept staff's recommendations.
(Carrico/McGoldrick: 5-0)

XII. Old Business (cont.)

D. Proposed Rules and Regulations Changes

The Commissioners adopted the proposed Rules changes that were the subject of the calendared Public Hearing by making the following motion:

MSC: To adopt the proposed Rules changes regarding filing fees and record of proceedings. (Carrico/Stephenson: 5-0)

The Commissioners then discussed proposed changes regarding substantial rehabilitation, which will be continued next week.

XIII. Calendar Items

September 26, 1989

6 appeal considerations

Old Business

4076 23rd St.

K001-01A (cont. from 9/12/89)

388 5th St.

K001-10R (cont. from 9/19/89)

Proposed Rules and Regulations

October 3, 1989

4 appeal considerations.

XIV. Adjournment

President Astle adjourned the meeting at 7:55 p.m.



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#1

9/26/89

NOTICE OF THE REGULAR MEETING OF THE SAN
FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday,
September 26, 1989

State Building, 350 McAllister St. #1158

AGENDA

- I. Call to Order
- II Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals

DOCUMENTS DEPT.

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- A. 970 Chestnut St. #7 K001-23R
- B. 2667 Harrison St. K001-15A
- C. 711 San Jose Ave. K001-17A
- D. 169 12th Avenue K001-18A
- E. 126 Shotwell St. K001-20A
- F. 115 Lilac St. K001-19A

- V. Communications
- VI. Director's Report
- VII. Consideration of Allegations of Wrongful Evictions

- A. Report from Staff
 - 1. 169A Ellsworth K002-52E

VIII. Old Business

- A. 4076 23rd St. K001-01A (cont. from 9/12/89)
- B. 388 5th St. K001-10R (cont. from 9/19/89)
- C. Rules and Regulations Changes

- IX. Appeal Hearing
- X. Calendar Items
- XI. Remarks from the Public
- XII. Adjournment

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, September 26,
1989 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

President Astle called the meeting to order at 5:47 p.m.

II. Roll Call

Commissioners Present: Astle, Carrico, How, Lipski,
McGoldrick, Soulis, Stephenson.
Commissioners not Present: Hammill, Marshall, Villa.
Staff Present: Grubb, Wicks.

III. Approval of the Minutes

MSC: To approve the Minutes of September 19, 1989, as
written. (How/Stephenson: 5-0)

IV. Consideration of Appeals

A. 970 Chestnut St. #7 K001-23R

The tenant appealed the hearing officer's finding that past rent increases were not improper since the landlord had "banked" several years increases; and that loss of the original storage space did not constitute a decreased service since an alternate storage space had been provided, and because this matter had been finally resolved in court. On appeal the tenant, an attorney, disputed final resolution of the storage issue in court.

MSC: To excuse Commissioner Soulis from this consideration.
(Stephenson/Carrico: 5-0)

MSC: To uphold the hearing officer and deny the appeal.
(How/Stephenson: 5-0)

B. 2667 Harrison St. K001-15A

The hearing officer's ruling was challenged by the landlord, who disputed the dates applicable for a rebate of improper rent increases. On appeal the landlord stated that the tenants had not paid any rent during five months of the period for which a rebate was given.

MSC: To remand the case to the hearing officer to ensure
that rent refunds were given only for months in which
rent was actually paid. (Carrico/Stephenson: 5-0)

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C. 711 San Jose Ave.

K001-17A

The landlord appealed the hearing officer's decision granting rent reductions for housing services decreases. Included were an open hole to the sewer below the apartment; serious leaks in the bedroom; cracks in the bathroom that allow snails to enter; and worn, torn, and separating linoleum. The landlord acknowledged these and other problems but stated major work would be done when financing was eventually obtained, so that extensive repairs were pointless at this time. Despite long-term, verifiable notice of the needed repairs, the landlord argued on appeal that no reduction should be beyond 12 months, that the rebates were excessive, and that the tenant had been "forgiven" a rent increase to compensate for conditions.

MSC: To uphold the hearing officer and deny the appeal;
Staff will make technical corrections on Table 1.
(Stephenson/McGoldrick: 5-0)

D. 169 - 12th Ave. #5

K001-18A

This case resulted from a dismissal of a tenant's petition which, on appeal, was denied without prejudice to refile. In an earlier decision on a petition filed by this tenant, the hearing officer raised the issue of a \$50.00 monthly rent increase for the addition to the tenancy of the petitioner's fiancée. In the subject case the hearing officer found the \$50.00 increase null and void as an impermissible rent increase but informed the landlord of options under both the banking and capital improvement provisions of the Rent Law. On appeal the landlord protested the unfairness of allowing the tenant to have a second hearing on a dismissed case, resulting in an unfair decision.

MSC: To accept the case at the Board level on the issue of
additional rent for an additional occupant.
(Carrico/How: 5-0)

E. 126 Shotwell St.

K001-20A

As compensation for decreased services, the hearing officer granted the tenant rent reductions for various repair problems both within and without the unit. These repair needs had allegedly been communicated orally to the landlord in 1986, 1987, and 1988; written notice was presented for several dates in 1989. Most repairs were made in May 1989. On appeal the landlord contends that the tenant could only document repair requests as of January 1989, and that the items complained of do not reach the level of decreased services.

MSC: To remand the case to a new hearing officer for
rehearing on all issues raised in the appeal.
(How/Carrico: 5-0)

F. 115 Lilac St.

K001-19A

The tenant filed a petition for illegal rent increase, as well as a Report of Alleged Wrongful Eviction. The landlady indicated she would not appear at the hearing because she was elderly and in ill health; she also withdrew the request for the tenant to vacate. On appeal the landlady disputed the hearing officer's voiding of improper increases
1931A

in 1983 (25%) and 1987 (40%), stating that she was managing the property for a relative who lives abroad and was merely following the owner's directions to raise the rent, to which the tenants agreed. She admitted to asking the tenant to vacate for the owner's nephew but later withdrew the request. The landlady appealed on the basis of financial hardship and ignorance of the law.

MSC: To accept the case at the Board level on the issue of landlord hardship. (Carrico/McGoldrick: 5-0)

V. Communications

The Commissioners received the following communications:

A. Evidence requested from the landlord concerning the case at 4076 - 23rd St. [K001-01A], heard by the Board on September 12, 1989;

B. Communications from both sides for the case at 126 Shotwell St. [K001-20A];

C. Letters concerning the eviction matters at 169-A Ellsworth St. [J002-52E] and 656 Spruce St. #A [J003-08E], which were signed;

D. The decision of the First Appellate District Division of the Court of Appeals concerning Parkmerced Residents Organization v. S.F. Rent Board (Sup. Ct. No. 864160);

E. The Board Summary of Evidence and Recommendation concerning the eviction matter at 2502 - 3rd St. [I004-93E & J002-10E], which was signed.

VI. Director's Report

A. Executive Director Joe Grubb passed out a sample Statement of Fees Due from the Tax Collector's office, which will be sent to owners for fee collection under the RRSA Fee Ordinance. The Commissioners made several suggestions for revisions;

B. Mr. Grubb discussed further the probable move of the office to 25 Van Ness Ave.

VII. Consideration of Allegations of Wrongful Evictions

Staff Report: 169-A Ellsworth K002-52E

The Board was informed of the current status of this matter. At the next meeting the Eviction Unit will advise the Board on whether or not this matter should be referred to the District Attorney for further investigation.

VIII. Old Business

A. 4076 - 23rd St. K001-01A (contd. from 9/12/89)

After discussing the evidence submitted by the landlord concerning her claim of financial hardship, the Board voted as follows:

MSC: To uphold the hearing officer and deny the appeal.
(Lipski/McGoldrick: 5-0)

B. 388 - 54th Street

K001-10R (contd. from 9/19/89)

The Board discussed their further review of this case and voted as follows:

MSC: To accept the appeal at the Board level to determine if the building qualifies as substantially rehabilitated.
(McGoldrick/Stephenson: 5-0)

C. Proposed Rules and Regulations Changes

Reference is made to draft language previously approved for public comment regarding Section 1.16. After further discussion of the proposed amendment, the Board voted as follows:

Section 1.16

MSC: Improvements will not be deemed substantial unless the cost of the work equals or exceeds seventy-five percent (75%) of the cost of newly constructed residential buildings of the same number of units and type of construction, excluding land costs and architectural/engineering fees. The determination of this estimated cost shall be based upon construction cost data reported by Marshall and Swift, Valuation Engineers, as adapted for San Francisco and posted in January and June of each year in the Bureau of Building Inspection for purposes of determining permit fees. The schedule posted nearest in time to the date of the Notice of Completion of the improvements shall apply.
(Stephenson/McGoldrick: 5-0)

IX. Calendar Items

October 3, 1989

5 appeal considerations

Old Business: A. Proposed Rules and Regulations Changes
B. Staff Report on 169-A Ellsworth [J002-52E]

October 10, 1989

NO BOARD MEETING

October 17, 1989

3 appeal considerations

Appeal Hearings:

6:00 - 59-A Noe St. K001-14A (acct. 9/12/89)
6:30 - 115 Lilac St. K001-19A (acct. 9/26/89)

X. Adjournment

President Astle adjourned the meeting at 7:43 p.m.
1931A



NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, 5:30 p.m.

October 3, 1989

State Building, 350 McAllister St. #1158

AGENDA

- I. Call to Order
 - II. Roll Call
 - III. Approval of the Minutes
 - IV. Consideration of Appeals
 - A. 355 Fulton St., #45 K001-40R
 - B. 2626 Union St., #4 K001-21A
 - C. 1880 Pacific Ave., #102 K001-41R
 - D. 2001 California St., #205 K001-22A
 - E. 430 Judah St. K001-42R
 - V. Communications
 - VI. Director's Report
 - VII. Remarks from the Public
 - VIII. Consideration of Allegations of Wrongful Evictions
 - A. Report from Staff
 - 1. 169-A Ellsworth St. K002-52E (contd. from 9/26)
 - IX. Old Business
 - Proposed Rules and Regulations Changes
 - X. New Business
 - XI. Appeal Hearing
 - XII. Calendar Items
 - XIII. Adjournment
- 1934A

DOCUMENTS DEPT.

SEP 29 1989

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10/3/89

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, October 3, 1989 at 5:30 p.m. at the State Building, 350 McAllister St. #1158

I. Call to Order

President Astle called the meeting to order at 5:35 p.m.

II. Roll Call

Commissioners Present: Astle, Hammill, Stephenson, Villa.
Commissioners not Present: Carrico, Lipski, Marshall, McGoldrick, Soulis
Staff Present: Grubb, Ruiz.

Commissioner How appeared on the record at 6:40 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of September 26, 1989 as written. (Stephenson/Villa: 4-0) **DOCUMENTS DEPT.**

IV. Consideration of Appeals

OCT 10 1989

A. 355 Fulton Street #5

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The tenant appealed the hearing officer's decision on remand disallowing rent reductions for various repair problems because they did not reach the level of decreased services. A decision was rendered on May 4, 1989 (Case No. J006-97T), in which the tenant prevailed and was granted a rent reduction to correspond with reduced housing services. The landlord appealed (Case No. J002-24A) and the case was remanded for a new hearing. On appeal to the remand, the tenant alleges that he can show discrepancies in the evidence concerning the operation of the elevator and the problem of pest control.

MSC: To uphold the hearing officer and deny the appeal. (Hammill/Villa: 4-0)

B. 2626 Union Street #4 K001-21A

Pursuant to the landlord's Notice of Appeal Withdrawal, this matter was taken off calendar.

C. 1880 Pacific Ave. #102 K001-41R

The tenant appealed the hearing officer's ruling that a dispute between a landlord and a tenant as to whether or not the lease agreement allows the use of a garage space is beyond the jurisdiction of the Rent Board and that it requires a legal interpretation of contract issues. Since the matter is pending in Court, the hearing officer determined that the Court should be the final arbiter of this matter. On appeal, the tenant argues that his petition only requires a decision on the basis of the lease provisions as they exist and not a legal interpretation of the validity of the lease; and that a decision from the Rent Board would still leave the landlord free to pursue a course of action in Court.

MSC: To uphold the hearing officer and deny the appeal.
(Hammill/Villa: 4-0)

D. 2001 California St. #205 K001-22A

The landlords appealed the hearing officer's decision voiding a rent increase to the tenants for failure to repair and maintain. They further appealed the hearing officer's recommendation based on the evaluation of the eviction evidence, that Mr. Rosso's status as a full-fledged tenant not be denied and that the tenants' right to have pets not be restricted in violation of previous oral agreements. On appeal, the landlords challenge the denial of a rent increase because the tenants did not give them notice of the repairs. They further argue that the issues of Mr. Rosso's status as a tenant and the restriction of pets are not properly before the Rent Board and that, in the alternative, should the Board have jurisdiction over these issues, that the Findings of Fact be supplemented and that the hearing officer's decision be reversed.

MSC: To uphold the hearing officer and deny the appeal; and
for the Board to continue to monitor this case.
(Hammill/Villa: 4-0)

E. 430 Judah St. K001-42R

The tenant appealed the hearing officer's determination that he was not a tenant subject to the jurisdiction of the Rent Board. The tenant had filed a petition alleging a substantial decrease in services. Specifically, the tenant alleged that the landlord failed to recognize him as a legal co-tenant of the premises; that the landlord harrassed both him and the master tenant; and that the landlord therefore violated the covenant of quiet enjoyment in their lease. On appeal, the tenant argues that the hearing officer was prejudicial in the manner in which he accepted and evaluated the tenant's evidence presented at the hearing.

MSC: To remand the case to a new hearing officer.
(Villa/Stephenson: 4-0)

V. Communications

The Commissioners received the following communications:

1. A draft copy of the job description for the full-time position of hearing officer, which was approved by the Board.
2. A memorandum from Alicia Wicks, Acting Deputy Director, regarding a letter received from a landlord's representative concerning capital improvement increases. The Commissioners requested that the staff refer it to the City Attorney for legal counsel.
3. A Notice of Appeal Withdrawal from the landlord of 2626 Union Street (Case No. K001-21A). This case was scheduled for consideration by the Commissioner on October 3, 1989, and pursuant to this request, it was taken off calendar.
4. An invitation from the San Francisco Tenants Union to the "Bay Area Housing Now Rally", to be held on October 1, 1989.

VI. Director's Report

- A. The Executive Director informed the Commissioners that the Rent Board staff was receiving many inquiries regarding the fee collection under the RRSA Fee Ordinance and that he would be investigating what type of questions are being answered by the staff.
- B. The Director gave the Board a summary of the meeting of the Land Use Committee of the Board of Supervisors, regarding vacancy control, held on September 28, 1989.
- C. The Director informed the Board that legislation to move to a new location has been sent to the Clerk of the Board of Supervisors.

VII. Consideration of Allegations of Wrongful Eviction

Staff Report

169A Ellsworth Street

K002-52E

This case was presented to the Commissioners on September 19, 1989 and on October 26, 1989, the staff informed the Board of the current status of this matter. The staff recommended that this case be remanded to the District Attorney.

MSC: The Rent Board Commissioners support the staff recommendation to refer this case to the District Attorney. (Stephenson/How: 4-0)

VIII. Old Business

The Board discussed the changes to Sections of the Rules and Regulations that are still pending. Further discussion will be continued to the October 17, 1989 Board meeting.

IX. Calendar Items

October 10, 1989
NO BOARD MEETING

October 17, 1989

6 appeal considerations

Old Business: proposed Rules and Regulations changes

Appeal Hearing:

6:00 115 Lilac St. K001-19A (accept 9/26/89)

October 24, 1989

3 appeal considerations

Old Business: proposed Rules and Regulations changes

Appeal Hearings

6:00 59A Noe St. K001-14A (accept. 9/12/89 and
post. from 10/3/89, 10/17/89)
7:00 169 12th Ave. K001-18A (accept. 9/26/89)

MSC: (1) To postpone 59A Noe Street (Case Nos.
K001-14A) from 10/17/89 to 10/24/89;
(2) To postpone 338 5th St. (Case No. K001-10R)
from 10/24/89 to 10/31/89. (How/Stephenson:
4-0)

X. Adjournment

President Astle adjourned the meeting at 6:15 p.m.



NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, 5:30 p.m.

October 17, 1989

State Building, 350 McAllister St. #1158

AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals

DOCUMENTS DEPT.

OCT 10 1989

SAN FRANCISCO PUBLIC LIBRARY

- | | |
|----------------------|------------------------|
| A. 508 Scott St. #4 | K001-43R |
| B. 711 San Jose Ave. | K001-44R |
| C. 1715 Webster St. | K001-23R |
| D. 1010 Bush St. | K001-45R thru K001-64R |
| E. 1546 Ortega St. | K001-24R |

- V. Communications
- VI. Director's Report
- VII. Remarks from the Public
- VIII. Consideration of Allegations of Wrongful Evictions

- IX. Old Business
- Proposed Rules and Regulation Changes

- X. New Business
- XI. Appeal Hearing

6:30 115 Lilac St. K001-19A (accept. 9/26/89)

- XII. Calendar Items
- XIII. Adjournment

1943A

RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD

OCTOBER 17, 1989

THE MINUTES FOR THIS MEETING ARE MISSING



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, November 14,
1989 at 5:30 p.m. at the City Hall, Room 2-C

I. Call to Order

Vice-President How called the meeting to order at 5:55 p.m.

II. Roll Call

Commissioners present: Carrico; Hammill; How; Lipski;
McGoldrick; Stephenson.

Commissioners not present: Marshall; Soulis, Villa.

Staff present: Wicks; Wolf.

III. Approval of the Minutes

MSC: To approve the Minutes of November 7, 1989, with
the following correction: p.l. caption + "Minutes
of the Special meeting . . . at 455 Golden Gate
Avenue, Room 2199."

IV. Old Business

A. Earthquake Issues - Tom Jones from the Mayor's Office of
Housing discussed the emergency legislation that has been
addressed by the Board of Supervisors. He encouraged the
Board to remain involved in the inter-agency discussions
of these issues.

V. Appeal Hearing

59A Noe St.

K001-14A

The landlord had appealed the hearing officer's denial of her
petition to raise the rent based on comparable rents of similar
units in the same area. She also argued that the tenant currently
occupying the unit is not a tenant under either California or
local law because he had been only a caretaker for the former resident,
whose tenancy terminated upon his departure from the premises and
subsequent death. She argued that the current resident's occupancy
constitutes a new tenancy subject to market rent. The Board
accepted the case for hearing on all issues raised.

Before commencement of the hearing, the Board passed the following
motion:

MSC: To excuse Commissioner Hammill from this case.
(Carrico/McGoldrick: 5-0)

The hearing began on the record at 6:55 p.m. and concluded at 8.25 p.m. By testimony and documentary evidence, the landlord argued that she had understood only that the subject tenant was a caretaker of the person and apartment of the critically ill original tenant. She maintained that she was not informed of the original tenant's death until approximately three months after the event. She further believed that the subject tenant was merely carrying for his friend's belongings, not actually residing in the unit.

By testimony and documentary evidence the tenant argued that he had informed the owner several times that he wished to live in the unit, that he informed her of the former tenant's death immediately after it occurred, and that the owner accepted an additional three or four month's rent after knowledge of the tenant's occupancy. The former tenant paid a monthly rent of \$318.00; the subject tenant indicated he could afford \$400.00 per month plus maintenance services, but the landlord insisted on \$550.00.

The Commissioners delayed discussion of this matter in order to address other agenda items.

VI.

Old Business (continued)

B. 800 Bush Street #201

K001-27A (cont. from 11/7/89)

This appeal consideration was continued from the previous week in order for the Commissioners to confer with the Board's attorneys. After discussing the matter, the Board voted as follows:

MSC: To remand the case to a hearing officer to recalculate the utility pass-through, to include carrying forward the pre-existing utility pass-through. (Carrico/Lipski: 5-0)

C. 169 12th Ave #5

K001-18A (heard 11/7/89)

After discussing the case, heard on appeal November 7, 1989, the Commissioners passed the following motion:

MSC: Based on this particular set of facts, the hearing officer's decision is overturned, and it is found that no unlawful rent increase was given; with the addition of an extra person to the tenancy, a permissible \$50.00 per month increase was negotiated. (Hammill/How: 4-0)

VI. Appeal Hearing (continued)

The Commissioners discussed the testimony and evidence submitted during the hearing and voted as follows:

- MSF: To reverse the hearing officer's decision and find a new tenancy begun at \$550.00 when the subject tenant took up residence on November 1, 1988. (Carrico/How: 2-3; Lipski,McGoldrick and Stephenson dissenting)
- MSC: Considering the facts of the case and in the interest of fairness and justice, to find that the subject tenant is an approved tenant at a base rent of \$434.00 (to include all banked increases), effective December 1, 1989. (Stephenson/Lipski: 5-0)

VIII. Communications

The Commissioners received copies of the following items:

- A. A letter from the landlord's attorney concerning 2011 Vallejo;
- B. A fact sheet on the earthquake's impact on low and moderate income housing from the Mayor's Office of Housing;
- C. A copy of the Ordinance proposal to allow temporary rent reductions negotiated between landlords and tenants to compensate for earthquake damage.
- D. Executive Director Grubb's letter to the Editor of the Chronicle, correcting misstatements in a recent newspaper article;
- E. The most recently revised Board's Earthquake Information Sheet.

IX. Director's Report

On behalf of Executive Director Joe Grubb, Rent Supervisor Delene Wolf reported on the status of office reorganization. The copier is expected to be delivered this week; the computer system may be in place sometime around Thanksgiving.

X. Remarks from the Public

- A. Al Goodwin expressed his concerns about limiting a landlord's ability to pass through costs of earthquake rehabilitation;
- B. Michael Harney relayed his feeling that the Rent Board needed to continue holding hearings on petitions as soon as possible and urged passage of tenant protections following rehabilitation of damaged buildings;
- C. Charlie LaKamp stated that he thought the Rent Board was doing a good job under trying circumstances.

XI. New Business

The Commissioners and staff were offered an opportunity to have one representative at a luncheon to honor the winners of the 1989 Managerial Excellence Award.

XII. Calendar Items

November 21, 1989

Appeal Hearings:

6:00	1010 Bush	K001-45R through K001-64R
7:00	115 Lilac	K001-19A
	<u>Old Business</u>	
	Proposed Rules and Regulations Changes	
	Earthquake Issues.	

XIII. Adjournment

Vice-President How adjourned the meeting at 10:00 p.m.



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, November 21,
1989 at 5:30 p.m. at the City Hall, Room 2-C

DOCUMENTS DEPT.

I. Call to Order

President Astle called the meeting to order at 5:35 p.m.

II. Roll Call

Commissioners present: Astle, Howe, Lipski, McGoldrick,
Soulis, Stephenson.

Commissioners not present: Carrico, Hammill, Marshall, Villa.

Staff present: Grubb, Ruiz.

Commissioner McGoldrick appeared on the record at 5:45 p.m. Commissioner
Lipski went off the record at 7:10 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of November 14, 1989,
with the following correction: (1) p.1.
under Commissioner not present, add:
"Astle". (2) p.2., under VI. Old Business,
C. 169-12th Ave. #5, MSC: . . . was given;
because a new tenancy was created and the
new base rent was negotiated, it should be
noted that no capital improvement should
be allowed prior to the new rent negotiated,
i.e., \$422.00 + \$50.00. (Howe/Stephenson:
5-0)

IV. Communications:

The Commissioners received copies of the following items:

- A. A letter from a tenant, George Yamas, concerning 2011
Vallejo, dated November 13, 1989.
- B. A letter from the Chinese Community Housing Corporation
inviting the Board members to attend the Bayside Elderly
Housing ground-breaking ceremony on November 30, 1989.

V. Director's Report

- A. The Executive Director, Mr. Joe Grubb, reported on the
status of office reorganization.
- B. The Executive Director extended his residence for the
Christmas party and it was decided that it would take

place on Friday, December 22, 1989 at 6:30 p.m.

VII. Old Business

- A. The Commissioners discussed issues related to the earthquake.
- B. The Board decided to hold three (3) community meetings - in the Marina, Chinatown, and North of Market areas - to discuss issues relevant to the jurisdiction of the Rent Board on December 12, 1989; January 9, 1990; and January 23, 1990.
- C. President Astle encouraged all Board members to continue to work on the proposed changes to the Rules and Regulations.
- D. The Director was directed to look into the feasibility of obtaining a place for the Board meetings.
- E. The Director was asked to contact the City Attorney regarding the proposed changes to the Rent Ordinance which were submitted to their office in August and to calendar a meeting.

IX. Appeal Hearings

- A. 1010 Bush St. K001-45R through K001-64R
(accept. 10/24/89)

Because the attorneys for both sides did not receive notice of the hearing on time, this case has been rescheduled for December 5, 1989.

- B. 115 Lilac St. K001-19A (accept. 9/26/89)

The tenant filed a petition for illegal rent increases, as well as a Report of Alleged Wrongful Eviction. The landlady indicated she would not appear at the hearing because she was elderly and in ill health. She also withdrew the request for the tenant to vacate. On appeal the landlady disputed the hearing officer's voiding of improper rent increases in 1983 (25%) and 1987 (40%), stating that she was managing the property for a relative who lives abroad and was merely following the owner's directions to raise the rent, to which the tenants agreed. She admitted to asking the tenant to vacate for the occupancy of the owner's

nephew, but later withdrew the request. The landlady appealed on the basis of financial hardship and ignorance of the law. On September 26, 1989, the Board accepted the case for hearing on the issue of landlord hardship only.

The hearing began on the record at 7:16 p.m. and concluded at 7:40 p.m. At the hearing, the landlord Frances Cuadra, appeared and was represented by Tari Fowler, attorney. The tenant, Ricardo Diaz, did not appear. After hearing testimony and reviewing the evidence, the Commissioners made the following motion:

MSC: To uphold the hearing officer's decision
 and to find that there is no hardship.
 The tenant may either withhold rent or the
 landlord should pay the lumpsum within five
 (5) days. (McGoldrick/Soulis; 5-0)

X. Calendar Items

The Board was informed that there were no pending appeal considerations at this time, but that the staff had started to schedule and notice appeal considerations.

November 28, 1989

Old Business

Proposed Rules and Regulations changes.
Earthquake issues.

XI. Adjournment

President Astle adjourned the meeting at 7:40 p.m. (Howe/McGoldrick: 5-0)



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NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD
Tuesday, November 28, 1989

City Hall, Room 2-C (Basement)

AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Communications
- V. Director's Report
- VI. Remarks from the Public
- VII. Old Business
 - A. Proposed Rules and Regulations Changes
 - B. Earthquake Issues
- VIII. New Business
- IX. Calendar Items
- X. Adjournment

DOCUMENTS DEPT.

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL
RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, November 28,
1989 at 5:30 p.m. at the City Hall, Room 2-C

I. Call to Order

President Astle called the meeting to order at 5:42 p.m.

II. Roll Call

Commissioners present: Astle; Lipski; Soulis; Stephenson.

Commissioners not present: Hammill; Marshall; Villa.

Staff present: Grubb; Wick.

Commissioner McGoldrick appeared on the record at 5:43 p.m.;
Commissioner How at 5:55 p.m.; and Commissioner Carrico at
6:01 p.m. Commissioner Stephenson went off the record at 7:15 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of November 21,
1989, as written. (Stephenson/
McGoldrick: 4-0)

IV. Communications

The Board received the following communications:

- A. A letter from Robert Sheppard, Esq. relating concerns about the lack of Rent Board hearings as a result of the disruption caused by the earthquake;
- B. A California Court of Appeals case, Minjilian v. Manzella, (Super. Ct. No. A18023), concerning a tenant's right to raise the defense of a excessive rent increase in an unlawful detainer action for nonpayment;
- C. The text of the opinion of the First Appellate Division, Super. Ct. No. 866261, Parkmerced Co. v. S. F. Rent Board, affirming on-going protection of the Ordinance for a tenant not on the original lease who appeared on subsequent leases and paid rent in her name for four years.

DOCUMENTS DEPT

DEC 4 1989

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V. Director's Report

- A. Executive Director Joe Grubb announced that Commissioner Ted Soulis had been appointed to the Fire Commission. Commissioner Soulis made a statement of farewell;
- B. Mr. Grubb reported that the Rent Board will resume hearings as of December 6, 1989. Approximately 50 hearings are scheduled for the period December 6 to December 20, 1989;
- C. The office copier has been installed, and the computer installation is on-going, with a possible operational date within 2 weeks;
- D. The Director reported on efforts to find a permanent location for the Commission meetings. Arrangement are being made for the community meetings planned for the near future.

VI. Old Business

- A. The Board discussed at length the need to review the 10% cap on capital improvement increases as applied to uninhabitable buildings with a "red tag" designation because of earthquake damage. The discussion will be continued at the next meeting;
- B. The Commissioners discussed ways to give notice to the involved public of the Board's Community Meeting in the Marina on December 12, 1989.

VII. Calendar Items

December 5, 1989

Appeal Hearing

6:00 1010 Bush St.

K001-45R thru K001-64R

Old Business

Earthquake Issues

Proposed Rules and Regulations Changes

December 12, 1989

*Community Meeting at the Marina Middle School

4 appeal considerations

Old Business

Earthquake Issues

Proposed Rules and Regulations Changes

VIII. Adjournment

President Astle adjourned the meeting at 7:22 p.m.



NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD

Tuesday, December 5, 1989

City Hall, Room 2-C (Basement)

AGENDA

I. Call to Order

DOCUMENTS DEPT.

II. Roll Call

DEC 4 1989

III. Approval of the Minutes

SAN FRANCISCO
PUBLIC LIBRARY

IV. Communications

V. Director's Report

VI. Remarks from the Public

VII. Old Business

A. Earthquake Issues

B. Proposed Rules and Regulations Changes

VIII. New Business

IX. Appeal Hearing

6:00 1010 Bush Street

K001-45R thru K001-64R

(accepted 10/24/89; postponed from
11/21/89)

X. Calendar Items

XI. Adjournment

were done in this building, claiming that the work was designed to drive the tenants from the building so that the landlord could receive higher rents. The matter came to trial on May 9, 1988, and the jury in the trial awarded the tenants 4.5 million dollars in damages. The jury held that the landlord's conduct during the rehabilitation work was motivated by a desire to force the tenants from the building and that the work was not intended to benefit the tenants, but to benefit a clientele for the hotel who would pay substantially higher rents than the current tenants. On appeal, the tenants argued that the hearing officer's determination that the work did benefit the tenants was in error and that the rent increases were retaliatory in view of the evidence provided at the hearing and the jury's findings at the trial.

On October 24, 1989 the Commissioners accepted the tenants' appeal for a Board hearing on the legal issues of motivation for making the improvements and certification of the improvements. The hearing convened at 6:30 p.m. The landlord and several tenants appeared, both sides represented by counsel. Counsel for both sides argued the issues of retaliation as referred to in Ordinance Section 37.9(d) and whether the landlord's motivation for doing the work is a valid consideration when certifying the costs for pass-through. At 7:40 p.m., the Commissioners decided to consult with the City Attorney and continued the case for one week.

VII. Old Business

Under "Earthquake Issues", the Commissioners discussed a Memo they received from Capital Improvements Specialist Rod Wong. The issues raised were:

- a. Does paint, plaster and/or sheetrock "repair" of an earthquake damaged unit qualify as capital improvement work or operating expenses?
- b. Can a landlord receive more than 10% in capital improvement pass-throughs if they file separate petitions; what about in subsequent years?
- c. Can a landlord pass through capital improvements completed before, but damaged by the earthquake?
- d. Should tenants continue to pay pass-throughs for work damaged by the earthquake?

The Commissioners requested that staff collect specific examples of the above situations, including the types of work and dollar amounts involved.

Commissioners How and McGoldrick reported on a red tagged building they had visited at 2101 Beach Street.

VIII. Calendar Items

December 12, 1989

* Community Meeting at the Marina Middle School

4 appeal considerations

Old Business

A. 1010 Bush St. K001-45R through K001-64R
(cont. from 12/5/89)

B. Earthquake Issues

C. Proposed Rules and Regulations Changes

D. Proposed Ordinance Changes

December 19, 1989

6 appeal considerations

Old Business

A. Earthquake Issues

B. Proposed Rules and Regulations Changes

IX. Adjournment

Vice-President How adjourned the meeting at 8:45 p.m.



MINUTES OF THE SPECIAL COMMUNITY MEETING OF THE SAN FRANCISCO
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday,
December 12, 1989 at 5:30 p.m. at the Marina Middle School, 3500
Fillmore St., Auditorium

I. Call to Order

Commissioner Carrico called the meeting to order at 5:48 p.m.

II. Roll Call

Commissioners Present: Carrico, Hammill, Lipski,
Marshall, McGoldrick, Stephenson
Commissioners not Present: Astle, Villa
Staff Present: Grubb, Wicks

Commissioner How appeared on the record at 5:52 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of December 5, 1989, as
written. (McGoldrick/Lipski: 4-0)

IV. Consideration of Appeals

A. 432 Geary St. #209 K001-31A

The landlord appealed the hearing officer's decision allowing a decreased service rent reduction for frequent inability to use his sink because of plumbing problems; further, improper rent increases back to September 1982 were nullified, with later proper increases accordingly adjusted. On appeal the landlord argued that the subject increase was approved by the Rent Board in 1982.

MSC: To remand the case to the same hearing officer to address the issues raised on appeal and to determine if capital improvement increases were added to past base rent and used in calculating later increases.
(Marshall/McGoldrick: 5-0)

B. 1460-1462 Page Street K001-30A

The landlord appealed the hearing officer's determination that several units in the property had suffered significant decreases in service, for a value of \$300.00 per month. The hearing officer determined from the evidence presented that the City had condemned the property in 1985

and that only cursory repairs had been made since 1987. On appeal the landlord objected to the time period and amount of the rent reduction as being without explanation.

MSC: To remand the case to the same hearing officer to set forth the amounts of each decrease item and justification for the reduced amount; and to make specific findings as to why the reductions were given for a period over one year. (Marshall/McGoldrick: 5-0)

C. 1435 Pacific Ave.

K001-32A

On appeal of the hearing officer's ruling--granting a monthly 3% rent decrease for on-going rodent infestation--the landlord argued that the tenants had not sufficiently proved that a serious problem existed. The tenants had testified to killing many mice, including 14 in an 11-day period.

MSC: To uphold the hearing officer and deny the appeal.
(Marshall/McGoldrick: 5-0)

D. 245-245-A Henry St.

K001-68R

In their appeal of a hearing officer's decision granting a rent increase for replacement of an old back stairway, the tenants argued that the cost should not be assessed to them because the landlord's deferred maintenance caused the work to be more extensive than necessary. Further, because the work was not done up to code, the stairs had to be rebuilt several times, causing an extensive delay in completion of the project.

MSC: To uphold the hearing officer and deny the appeal.
(How/Carrico: 5-0)

V. REMARKS FROM THE PUBLIC: COMMUNITY MEETING

Approximately 55 people appeared to take part in the discussion of Marina earthquake issues and other topics under the jurisdiction of the Rent Board. Both landlords and tenants spoke of their concerns relating to housing, in general, and earthquake problems, in particular. In response the Commissioners addressed the issues raised, with referrals to other City agencies and procedures, when appropriate. This discussion began at 6:20 and ended at 7:55 p.m. Following are some of the topics discussed:

A. Although the City tagged the tenant's building as "green," the landlord's engineer stated it was hazardous for the tenants to remain, and the landlord gave a 14-day notice for all tenants to remove themselves and their property;

B. An owner of a "red" tagged building, which family members had inherited, explained the dilemma facing landlords who wish to rehabilitate severely damaged properties but who cannot afford to do this expensive work if the 10% cap on capital improvement increases remains in effect;

C. A tenant expressed her anxiety and that of other residents in a Marina building because the earthquake damage seemed to indicate safety hazards, although the landlord assured them the property was safe. They wanted to know how they could determine the extent of any potential danger;

D. Several tenants expressed concern about the cost of improvements to their building following work to correct earthquake damage. They also mentioned how rent might be reduced for loss of utilities and for temporary vacation of the property immediately after the earthquake;

E. A former resident manager, now tenant organizer, detailed his problems with the owner of his residential building following the landlord's refusal to repair earthquake damage and alleged posting of bogus "red" tag notices on an essentially habitable building;

F. Several members of the public encouraged the Board to pass legislation as soon as possible to deal with some of the issues discussed at the meeting.

VI. Communications

The Commissioners received the following communications:

A. An invitation to the office Christmas party;

B. A letter from the owners of 2101 Beach Street with an estimate of the cost of either repairing or replacing their building which was severely damaged by the earthquake and carries a "red" tag designation;

C. A letter from the Tenderloin Housing Clinic concerning interest on capital improvements;

D. A request for postponement for the appeal consideration concerning 1426-1428 Guerrero, which was granted;

E. A tenant's letter supporting the hearing officer's decision, which was the subject of the appeal consideration for 432 Geary.

VII. Director's Report

Executive Director Joe Grubb reported on the conference he attended on unreinforced masonry buildings.

VIII. Old Business

The Commissioners deferred discussion of the noticed agenda items until the meeting of December 19, 1989.

IX. Calendar Items

December 19, 1989

4 appeal considerations

EXECUTIVE SESSION: Pursuant to Government Code Section 54956.9(b)(1) concerning 1010 Bush Street (K001-45R thru K001-64R)

Old Business

A. Proposed Rules and Regulations Changes

B. Earthquake Issues

December 26, 1989--NO MEETING

X. Adjournment

Commissioner Carrico adjourned the meeting at 8:10 p.m.

1956A

1956A



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD,
Tuesday, December 19, 1989 at 5:30 p.m. at the City Hall,
Room 2-C

I. Call to Order

Commissioner Astle called the meeting to order at 5:31
p.m.

II. Roll Call

Commissioners Present:	Astle; Hammill; Lipski; Stephenson; Villa
Commissioners not Present:	How; McGoldrick; Marshall
Staff Present:	Grubb; Ruiz

Commissioner Carrico appeared on the record at 6:11 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of December 12, 1989 as
written. (Hammill/Stephenson: 4-0)

IV. Executive Session

Pursuant to Government Code Section 54956.9(b)(1), the
Commissioners met in closed session, concerning 1010 Bush Street
(K001-45R through K001-64R). This appeal hearing was heard on
December 5, 1989, at which time the Commissioners decided to
consult with the City Attorney and continued the case. This
appeal hearing will be continued on January 2, 1989.

V. Consideration of Appeals

A. 1245 Kearny K001-69R

The tenant appealed the hearing officer's decision allowing a
rent reduction of \$53.87 per month (7%) for decreased services
from February 1, 1989 through September 1989. On appeal, the
tenant argued that the amount granted does not cover the loss of
the use of 50% of her living space nor the aggravation of trying
to get the landlord to make repairs for 8 months. In addition,
the tenant feels that the banking of 4% should be disallowed for
that period of time.

MSC: To remand to a hearing officer to consider the issue of failure to repair and maintain as a defense to a rent increase. (Villa/Stephenson: 4-0)

B. 2121 Geary Blvd.

K001-70R

The tenant appealed the hearing officer's decision denying her petition for illegal rent increases since 1984. In 1984, DeWolf Realty transferred the cost of utilities to the tenant and estimated their cost to be a reduction in services valued at \$47.64 per month. On appeal the tenant argued that all future rent increases are incorrect because the landlord has included this sum of \$47.64 in the base rent in calculating the annual rent increase.

MSC: To remand to a new hearing officer.
(Stephenson/Hamill: 4-0)

C. 255 Steiner St. #104

K001-34A

The landlord appealed the hearing officer's decision allowing a rent reduction for substantial reduction in housing services and for failure to repair and maintain. On appeal, the landlord argued that these decisions are incorrect because he completed the repairs in a timely manner and he provided proof of abatement from the Bureau of Building Inspection.

MSC: To remand to make a finding of whether or not the repairs were abated and, if so, the date of abatement as it affects the period of rent reduction. (Villa/Hamill: 4-0)

D. 780 Post Street #27

K001-35A

The landlord appealed the hearing officer's decision allowing the tenant a rent reduction for substantial decreased services. On appeal the landlord argued that the tenant had not contacted management regarding the repairs and that he had not provided access to the premises in order to make repairs.

MSC: To uphold the hearing officer's decision and deny the appeal. (Villa/Stephenson: 4-0)

VI. Communications

The Commissioners received the following communications:

A. Copy of a letter to the City Attorney's Office, from the former Deputy Director of the Rent Board, requesting that that office draft legislation to amend Chapter 37 of the San Francisco Administrative Code.

B. A request for postponement for the appeal consideration concerning 1245 Kearny Street (Case No. K001-69R) in order to have time to respond. The request was not granted because on December 14, 1989, a written response was received from the landlord's attorney.

C. A copy of the Toxics News from the Toxic Control Management Program of the San Francisco Department of Public Health.

D. A tenant's letter supporting the hearing officer's decision, which was the subject of the appeal consideration for 780 Post Street, #27 (K001-35A).

E. A farewell letter from Commissioner Ted Soulis commending both the staff and Commissioners.

F. A letter of thanks from the Executive Director, Mr. Joe Grubb, to Messrs. Phil Lee and Joseph Bravo, of the Apartment House Owners Association, for their assistance in the notification process regarding the Marina Rent Board Community Meeting on December 12, 1989.

G. A letter from the Executive Director to Mr. Bill Lee, Director of Toxics, commending the efforts of Mr. Woody Hunter, Director of the Employee Assistance Program (EAP), City and County of San Francisco.

H. Flyer from the Old Saint Mary's Housing Group regarding their Annual Meeting on January 3, 1990.

I. Copy of legislation amending to the San Francisco Administrative Code, Sections 37.3 and 37.8 thereof to permit landlords to pass through to tenants penalties for exceeding water allotment, which passed on First Reading on December 18, 1989.

VII. Director's Report

A. The community meeting for the North of Market Area will be held at the Dorothy Day Community Center at McAllister, in the dining room on January 9, 1990; the community meeting for the Chinatown area will be held at the Commodore Stockton High School on January 23, 1990.

B. The Director informed the Commissioners of his efforts in finding a permanent meeting place for the Rent Board.

C. The Rent Board Christmas party will be held on December 22, 1989, 6:30 p.m., at the residence of the Executive Director.

D. The job description for the position of Hearing Officer of the Rent Board was sent out. The deadline for applying is January 12th, 1990. The Director also informed the Board that although this is not a Civil Service position, the Civil Service Commission needs to approve the process and this item has been placed on their calendar for January 8, 1990. President Astle stated that she would like to review the applications for this position.

E. The Director was instructed to contact the Mayor's Office regarding the appointment of a new Commissioner.

VIII. Old Business

Commissioner Lipski distributed a copy of the draft for the proposed change of Section 8.10, Pre-Certification Hearings for Occupied Buildings. This item will be discussed on January 2, 1990.

IX. Remarks from the Public

A. Jean Marsh, the tenant of 245 Kearny, which was the subject of an appeal consideration, asked questions of the Commissioners.

B. A tenant of 1010 Bush Street (K001-45R through K001-64R), inquired regarding the appeal hearing process for this case and was informed by the Commissioners that the case would be discussed on January 2, 1990.

X. Calendar Items

December 26, 1989

No Meeting

January 2, 1990

1 appeal consideration

Old Business

A. Proposed Rules and Regulations Changes

Pre-Certification Hearings for Occupied Buildings

B. Earthquake Issues

Appeal Hearing

1010 Bush Street

K001-45R through K001-64R

January 9, 1990

*Community Meeting at the Dorothy Day Community Center
4 appeal considerations

XI. Adjournment

President Astle adjourned the meeting at 6:12 p.m.
(Villa/Hammill: 4-0)
1971A

